

Minutes  
Catawba County Board of Commissioners  
Regular Session, Monday, October 6, 2003, 9:30 a.m.

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The Catawba County Board of Commissioners met in regular session on Monday, October 6, 2003, 9:30 a.m., at the 1924 Courthouse, Robert E. Hibbits Meeting Room, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chairman Dan A. Hunsucker, Commissioners Glenn E. Barger, Barbara G. Beatty (arrived at 10:10 a.m.), and Lynn M. Lail.

Absent: N/A

A quorum was present.

Also present were Assistant County Manager Mick W. Berry, County Attorney Robert Oren Eades, Staff Attorney Debra Bechtel, and County Clerk Thelda B. Rhoney.

1. Chair Barnes called the meeting to order at 9:30 a.m.
2. Commissioner Barger led in the Pledge of Allegiance to the Flag.
3. Chair Barnes offered the Invocation.
4. Commissioner Barger made a motion to approve the minutes from the Regular Session of Monday, September 15, 2003. The motion carried unanimously.
5. Recognition of Special Guests. None.
6. Public Comment for items not on the agenda. None.
7. Presentation of Proclamations:
  - a. The Board proclaimed the month of October 2003 as Domestic Violence Month and Commissioner Lail presented the Domestic Violence Month Proclamation to Ann Peele, Executive Director, Family Guidance Center and Laurie George, First Step Program Director.
  - b. The Board proclaimed the week of October 5-11, 2003, as Fire Prevention Week and Commissioner Hunsucker presented a Fire Prevention Week Proclamation to Fire Marshal David Pruitt.
8. Appointments. None.
9. Consent agenda:

Assistant County Manager Mick Berry presented the following consent agenda items:

- a. Transfer of Capital Projects for Newton-Conover City Schools.

Two completed projects with remaining balances have been identified by Newton-Conover Schools. A new public address system at Shuford Elementary was purchased with a remaining balance in the project of \$2,848.00. The project to purchase land for a future new elementary school in Conover has a remaining balance of \$232.26. In the FY 2002-03 budget \$50,000 was approved to make needed improvements to Conover School as part of the continuing effort to provide a safe learning environment and meet the requirements of the Americans with Disabilities Act. The transfer of \$3,080.26 from the described completed projects would provide additional funds for these projects. The Finance and Personnel Subcommittee recommended that the Board of Commissioners approve a transfer of \$3,080.26 from two completed capital projects to a project for renovations at Conover School as requested by Newton-Conover Schools.

Transfer of Appropriation:

From:	420-750100-864200-33104-3-03 Shuford Public Address System	\$2,848.00
	420-750100-863200-33109-1-01 Land Acquisition	\$ 232.26
To:	420-750100-864200-33101-3-05	\$3,080.26

Conover School ADA Renovations

b. School Health Assistant Positions.

Hickory Public Schools (HPS) requested additional school health nursing services in their five elementary schools. School administrators expressed concern over teachers and support staff providing medical care to students with medical procedures and medications needed on a daily or as needed basis. Because of the limited number of school nurses available to the HPS district (2 FTEs), nurses have been unable to spend significant amounts of time in each elementary school and cannot provide all of the medical care needed at each school every day. Therefore, the proposal for five school health assistants for the five elementary schools was agreed upon to meet the District's and the Health Department's needs. Each school health assistant will work under the license of the school health nurse. Their duties will support the duties of the school health nurse in meeting the health needs of children, health office management and clerical activities pertaining to the performance health screenings, procedures and health education. Subsequent years of employment for these five employees would begin on the first required teacher workday each year and end on the last required teacher workday. The employees would not be required to work optional teacher workdays and will receive compensation for annual leave, holidays and sick leave as set out in the Catawba County Personnel Code for half-time employees. Annual leave is earned at 3.333 hours per month, sick leave is earned at 4 hours per month and holidays are earned at 4 hours per month. The school health assistant will take their annual leave time as scheduled by the school calendar for Hickory Public Schools (HPS). The Hickory Board of Education and the Catawba County Board of Health approved the School Assistant Proposal and the establishment of five (5) halftime school health assistant positions at their respective Board meetings on September 8, 2003. Five halftime school health assistant positions will be funded by Hickory Public Schools in the amount of \$75,270 for fiscal year 2003-04. This funding amount reflects an employment date of October 13, 2003.

Hickory Public Schools - School Health Assistants  
School Year 2003-2004

Projected Beginning Date of Employment: October 13, 2003

Breakdown of Costs per position:

Salary	\$8,563
<i>(Catawba County salary grade 60 x 108%=\$10.73 per hour)</i>	
<i>(\$10.73 x 798 hours per year - lower than 1040 due to start date of 10/13)</i>	
FICA	\$655
Retirement	\$419
Group Health	\$3,100
Group Dental	\$150
Long Term Disability	\$22
Short Term Disability	\$55
Uniform	\$240
Educational Supplies	\$200
Travel	\$500
Education	\$400
Printing	\$200
Small Tools	\$550
<i>(telephone and computer costs to be covered by Hickory Public Schools)</i>	
	\$0
Total cost per position:	\$15,054
Total costs for five (5) School Health Assistants:	\$75,270

c. Parks Division - Additional FTE/Capital Equipment Budget Amendment.

A Parks Preservation Fund was established in FY 2000 to provide a funding source for future parks projects and to leverage grants for other County resources. Monies from this fund were added to a

State grant in 2001 for the development of Bakers Mountain Park. As part of the budget reduction in FY 2001/02, the park hours were reduced to four days per week. This leaves two full-time FTE's to cover both parks during the four days they are open and perform maintenance. Maurice Parent a full-time employee is currently on active duty in Iraq and in his absence part-time employees have been filling in. This FTE would be in addition to Maurice Parent who would assume his full-time duties once he returns from his military service. In light of tremendous success that Bakers Mountain Park and Riverbend Park have enjoyed since their establishment over the last 3-4 years, staff recommended focusing attention on the following:

Travel and Tourism:

The parks while still in the infancy stage are gaining more and more interest and patron usage as people become aware of their natural beauty and recreational opportunities. The Charlotte Observer in a recent "race week" feature listed the parks as the editor's choice for the best place to take a hike. These two assets act as a magnet attracting tourist to our community and complementing the overall "quality of life" which is a major factor in recruiting businesses and development to our County.

Safety:

An additional FTE is essential to the safe and efficient operation of Catawba County Parks. The additional employee will allow the Parks Division to safely maintain the parks. Staff engages in maintenance practices that require the use of chainsaws, tractors, mowers and other potentially dangerous equipment. This employee will allow staff the opportunity to perform potentially dangerous maintenance practices without being alone in the park.

Due to the safety concerns for patrons visiting the parks as well as for those previously mentioned, it is essential that we have a full-time employee at each facility due to the highly responsible nature of the park ranger position.

Cost Effectiveness:

In the past nine months the Parks Division has accrued at least 600 overtime hours between two employees. We are paying for the position without the benefits of the person being on staff. This new position will help reduce overtime costs.

Educational Programming:

The Parks Division is currently understaffed, which limits their ability to provide educational programs and volunteer programs. Educational programs are an important part of the Parks Division as the staff teach our young people about wildlife, plants, water resources and forestry management practices which are all invaluable components to their overall learning experience. The demand for these services will continue to increase as we gain more capacity.

Maintenance:

It is virtually impossible to adequately maintain 600-acres, 16-miles of trails, facilities at two parks, janitorial needs, lawn care, administrative duties and operate a 48-hour week open to the public, with current staffing levels.

Staffing and Morale:

The Parks Division currently operates two parks with fewer staff than it previously operated with at Riverbend Park in 2001/2002. No additional employees were added when Bakers Mountain opened, due to budget constraints. With current staffing, no one in the Parks Division can use vacation time or sick leave that involves a Friday through Monday nor take a holiday. The Parks Division simply has no one to fill in. The minimum work week is 48-hours every Friday through Monday. However, the average work week is 55-65 hours.

4-Wheel Drive Vehicle:

The Parks Division currently borrows a 1992 Crown Victoria that has 145,000 miles and a slipping transmission. The 4 Door 4 x 4 truck would need to meet the demands of severe weather and be able to handle the rugged terrain when driving through the extensive trail system that both Riverbend and Bakers Mountain Parks feature. It would be very important to insure that reliable transportation is available to transport patrons stranded or injured on remote sections of the parks in a moments notice.

The Finance and Personnel Subcommittee recommended that the Board of Commissioners appropriate funds in the amount of \$53,000 from the interest revenue generated from the "Parks

Preservation Trust Fund" in order to hire one additional full-time Park Ranger and purchase a 4-Wheel Drive, V-6 Extended Cab Pick-up Truck.

Budget Revision

Supplemental Appropriations  
Increase:

270-440022-690100	
Fund Balance Applied	\$ 53,000
270-440022-995110	
Transfer to General Fund	\$ 53,000
110-420030-695270	\$ 53,000
Transfer from Other Parks Preservation Fund	
110-440021-812100	
Regular Wages	\$ 17,858.86
110-440021-821000	
FICA	\$ 1,821.60
110-440021-822100	
Retirement	\$ 873.30
110-420030-823100	
Group Health	
Assumes Family Coverage	\$ 4,552.50
110-440021-823300	
Group Dental	
Assumes Family Coverage	\$ 196.56
110-440021-823600	
Long Term Disability	\$ 72.80
110-440021-825500	
Short Term Disability	\$ 79.50
110-440021-831015	
Uniforms and Clothing	\$ 900.00
110-440021-831090	
Other Misc Operating Supplies	\$ 795.00
110-440021-841505	
Telephone Service (Nextel)	\$ 850.00
110-440021-976000	
Motor Vehicle	\$ 25,000.00
Total Appropriation	\$ 53,000

d. Refund Requests.

Three refund requests totaling \$312.79 were made to the Tax Office. The records were checked and the refunds verified.

Anderson, Cameron, 2363 – 24<sup>th</sup> St Lane NE, Hickory, NC 28601, Account No. 183878

In 2003 Mr. Anderson had a 1995 Chaparral Boat double-listed in both Catawba County and Alexander County. This boat is stored at Lakeside Marina, in Alexander County. He paid the 2003 Catawba County taxes and has requested a refund.

<u>Year</u>	<u>Value</u>	<u>Rate</u>	<u>County</u> <u>Tax</u>	<u>Late-List</u> <u>Penalty</u>	<u>Total</u>
2003	8,200	.480	39.36	10% 3.94	\$43.30*

\*This is in the City of Hickory.

Cannon Financial Services, Inc., Attn: D. Keith Cannon, President, 336 Lenoir-Rhyne Blvd SE, Ste 7, Hickory, NC 28602-3878, Account No. 164680

In 2002 the business personal property was double-listed by the owner, and by their accountant. Both tax bills were paid. Future listings will be filed by the accountant only. The owner requested a refund for the amount of their overpayment of taxes.

<u>Year</u>	<u>Value</u>	<u>Rate</u>	<u>County</u> <u>Tax</u>	<u>Total</u>
2002	4,220	.495	20.89	\$20.89*

\*This is in the City of Hickory.

Steele, Paul E. and Dorothy, 2756 Palmer Dr., Conover, NC 28613-9302, Account No. 066747000

An error was discovered in calculating the square footage on the owner's residence (PIN 3753-04-70-5263.0000). This error resulted in an overpayment of taxes in 2001 and 2002. The records for 2003 have been corrected. Mr. & Mrs. Steele requested a refund of the applicable amount due.

<u>Year</u>	<u>Value</u>	<u>Rate</u>	<u>County</u> <u>Tax</u>	<u>Rural Fire</u> <u>Rate</u>	<u>Tax</u>	<u>Total</u>
2002	22,000	.495	108.90	.070	15.40	124.30
2001	22,000	.495	108.90	.070	15.40	124.30
Total Refund						\$ 248.60

e. Extension for Listing of Personal Property.

The Tax Administrator requested the authority, on an individual basis, to allow extensions for listing personal property. If approved, the extensions will not be granted beyond April 15. Businesses and corporations whose business year ends on December 31 of each year, and some individuals can have difficulty in completing their listing abstracts by January 31 of each year. This is due to the fact that they are unable to calculate an inventory that is taken on December 31 and submit this figure to the Tax Administrator. General Statute 105-307 allows the Board of County Commissioners to grant individual extensions of time for the listing of personal property upon written request and for good cause shown. The request must be filed with the Tax Administrator no later than the ending date of the regular listing period. This means a letter must be written and postmarked no later than January 31, 2004, and this letter must provide the reason the extension is being requested. Extensions granted on an individual basis cannot extend beyond April 15, 2004. Staff recommended the Board authorize the Tax Administrator to grant extensions for listing to those making a written request and showing a "just cause."

f. Revision of request from Children's Protection Council to use Justice Center steps for a vigil on November 3 instead of October 6, 2003.

The Board approved a request for the Children's Protection Council to use the Justice Center Grounds on October 6 at its regularly scheduled meeting of September 15, 2003. A revised request was received from the Children's Protection Council to use the Justice Center Grounds for a vigil on Monday, November 3, 2003, from 11:30 a.m. until 1:30 p.m. because the State Medical Examiner did not have the information available for the October 6 vigil.

g. Request from City of Newton Festival and Events Committee for use of 1924 Courthouse Grounds for a Tree Lighting Ceremony on Sunday, November 30, 2003.

Staff recommended that the Board approve the City of Newton Festival and Events Committee's request for use of the 1924 Courthouse Grounds for a Tree Lighting Ceremony on Sunday, November 30, 2003, from 4:00 p.m. until 8:00 p.m.

- h. Ratify approval for Waiver of Solid Waste Disposal Fees for Murray's Mill Annual Harvest Folk Festival on September 27 and 28, 2003.

The Catawba County Historical Association sponsored the annual Murray's Mill Harvest Folk Festival to provide knowledge of early 18<sup>th</sup> century events. There were over 5,000 people in attendance. Mr. Paul Beatty, Co-Chairman of the event requested a waiver of solid waste disposal fees for two 20 cubic yard waste containers. Garbage Disposal Service/Republic Service donated the cost of the containers and hauling of the containers to the Blackburn Landfill. The Policy and Public Works Subcommittee recommended that the Board ratify approval for waiver of the solid waste-tipping fee for the waste generated at the Murray's Mill Harvest Folk Festival on September 27 and 28, 2003.

- i. Ratify approval of request from Bunker Hill High School's 50th Anniversary Fireworks Display on Friday, September 26, 2003.

Bunker Hill High School's 50<sup>th</sup> Anniversary was celebrated at half time during the football game on Friday, September 26, 2003. Staff received a request to approve the fireworks display late in that week and the Board of Commissioners was polled on September 25<sup>th</sup> and 26<sup>th</sup>. The Board unanimously gave its approval to the fireworks display subject to approval by the Fire Marshal's office, proof of insurance, and having the Oxford Fire Department on standby. Staff recommended that the Board enter this action into the minutes.

- j. Resolution Supporting NCDOT's Road Improvements to St. Johns Church Road (SR 1712) Intersections at Hwy. 16 and Rock Barn Road (SR 1709).

The St. Stephens/Oxford Small Area Plan, which was adopted by the Board of Commissioners in April 2003, identifies dangerous road intersections in need of improvement. One of the intersections specifically noted in the plan was Hwy. 16 and St. Johns Church Road (SR 1712). This intersection was in need of re-alignment due to the angle which St. Johns Church Road enters Hwy. 16. In addition to identifying this specific project, the St. Stephens/Oxford plan states as an overall guiding principle that roads should be safer for the traveling public and bicyclists. The widening of roads is one way to make roads safer. Due to St. Johns Church Road being used as a connector road from Rock Barn Road to Hwy. 16, it was desirable to have the road widened. Along with this improvement was also the need for the intersection of St. Johns Church Road and Rock Barn Road to be modified with a left-turn lane. NCDOT, through its Urban Discretionary Funds, can construct needed improvements to create safer intersections and increase traffic flow. The projects noted above are eligible for such money. Based on the recommendations of the St. Stephens/Oxford Small Area Plan, staff supports NCDOT's improvements to the intersections of St. Johns Church Road at Hwy. 16 and Rock Barn Road and the widening of St. Johns Church Road.

**Resolution No. 2003-42**

**Supporting the North Carolina Department of Transportation and Division of Highways Improving the Intersection of SR 1712 (St. John's Church Road) and NC 16 Hwy; and the Intersection of SR 1712 (St. John's Church Road) and SR 1709 (Rock Barn Road); and Widen and Resurface SR 1712 (St. John's Church Road) in Catawba County, North Carolina**

WHEREAS, The North Carolina Department of Transportation and Division of Highways proposes to improve the intersection of SR 1712 (St. John's Church Road) and NC 16 Hwy, and improve the intersection of SR 1712 (St. John's Church Road) and SR 1709 (Rock Barn Road) and widen and resurface SR 1712 (St. John's Church Road) in Catawba County, North Carolina.

WHEREAS, the Catawba County Board of Commissioners adopted the St. Stephens/Oxford Small Area Plan in April 2003 which identifies specific road improvements and

WHEREAS, the St. Stephens/Oxford Small Area Plan which encourages safer roads for the traveling public and specifically recommends improvement of the intersection of Hwy 16 and St John Church Road.

NOW, THEREFORE, BE IT RESOLVED, we, the Catawba County Commissioners Board of Commissioners, being the official governing body of Catawba County, in North Carolina, do hereby



support the North Carolina Transportation and Division of Highway's proposal to improve the intersections of SR 1712 (St. John's Road) and NC 16 Hwy, and improve the intersection of SR 1712 (St. John's Road) and SR 1709 (Rock Barn Road) and widen and resurface SR 1712 (St. John's Road) in Catawba County, North Carolina.

This the 6<sup>th</sup> day of October, 2003.

/s/ Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

Attest:

/s/ Thelda B. Rhoney, County Clerk

Commissioner Lail made a motion to approve the consent agenda. The motion carried unanimously.

### **End Consent Agenda**

#### **10. Departmental Reports:**

##### **a. Utilities and Engineering Department:**

##### **1. Second Reading of Solid Waste Franchise Agreement.**

Utilities and Engineering Director Barry B. Edwards requested that the Board adopt Ordinance No. 2003-18 on the second reading, approving a ten year, exclusive franchise with Republic Services of NC, LLC, d/b/a GDS for Solid Waste Management and Disposal Services, and also approve the contracts on second reading which are a part of the ordinance. Pursuant to North Carolina General Statute 153A-46 an ordinance is required to grant a Solid Waste Franchise and is finally adopted after it has been passed at two regular meetings. The ordinance and the contracts will become effective on July 1, 2004. (Note: Ordinance and agreements are spread in the minutes of the September 15, 2003 meeting.)

Commissioner Barger made a motion to approve second reading of the ordinance and franchise agreements. The motion carried unanimously.

##### **2. Resolution Recommending that the Public Water Supply Section of the NCDENR Rescind its Policy Which Limits Water Pressure in Public Water Supply Systems to 100 Pounds Per Square Inch (pertaining to Southeastern Catawba County Water Supply Loop Phase I).**

Utilities and Engineering Director Barry B. Edwards said the Policy and Public Works Subcommittee recommended that the Board of Commissioners issue a letter and adopt a resolution requesting that the Public Water Supply Section of North Carolina Department of Environment and Natural Resources policy limiting water systems to 100 psi be rescinded. The requirement came to staff's knowledge while in the process of obtaining approval for the Southeastern Catawba County Water Supply Phase I, the NC 150 Water Line Project.

#### **Resolution No. 2003-43**

#### **Resolution Recommending that the Public Water Supply Section of the North Carolina Department of Environment and Natural Resources Rescind its Policy Which Limits Water Pressure in Public Water Supply Systems to 100 Pounds Per Square Inch**

WHEREAS, Catawba County, and upon information and belief, many other municipalities and counties throughout the State of North Carolina, currently have in operation public water supply systems which have maximum water pressures in excess of 100 pounds per square inch (psi); and

WHEREAS, the Public Water Supply Section of the North Carolina Department of Environment and Natural Resources (hereinafter "PWS") has recently adopted a new policy which limits water pressure in public water systems to a maximum of 100 psi; and

WHEREAS, PWS will no longer grant authority for construction of public water supply systems without a concomitant obligation from the public entity requesting such authority that the new public water supply system will not have water pressures in excess of 100 psi; and

WHEREAS, in an undulating topography where water supply systems must repeatedly move water uphill and downhill, limiting water pressure to 100 psi would require the installation of many additional valves and pumps which would have a significant impact on both the cost of construction and the cost of operation of any new water supply system; and

WHEREAS, one immediate consequence of this new PWS policy is an unreasonable delay in construction in the Southeastern Catawba County Water Supply Phase I, Highway 150 Water Line Project; and

WHEREAS, the extensive additional construction costs would result in significant delay or cancellation of additional water line construction; and

WHEREAS, the additional operating costs associated with new water line supply systems would be of necessity passed on to consumers; and

WHEREAS, there is no apparent benefit associated with PWS new policy limiting water pressure; and

WHEREAS, the new PWS policy was implemented without any public discussion and without input from any outside entity.

NOW, THEREFORE, BE IT RESOLVED that the Catawba County Board of Commissioners respectfully requests that the Public Water Supply Section of the North Carolina Department of Environment and Natural Resources rescind its policy limiting water pressure in public water supply systems to 100 psi.

Dated this 6th day of October, 2003.

/s/ Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

Commissioner Barger made a motion to adopt the aforementioned resolution and authorized staff to send a letter to the Governor and others. The motion carried unanimously.

b. Tax Department:

1. Annual Report and Settlement of Taxes.

Tax Collector Jackie A. Spencer presented the Report and Settlement of 2002 Tax, Fiscal Year July 1, 2002, To June 30, 2003, as required by NCGS 105-352 and 105-373.

FISCAL YEAR JULY 1, 2002, TO JUNE 30, 2003  
CATAWBA COUNTY 2002 TAX YEAR

ADJUSTED LEVY as of 6-30-03 ..... \$ 53,182,726

BALANCE OF A/R as of 6-30-03

Real & Personal Property ..... \$ 812,172

COLLECTIONS as of 6-30-03 ..... \$ 52,370,554

PERCENTAGE COLLECTED as of 6-30-03 ..... 98.47%

COLLECTIONS FROM OTHER SOURCES

Garnishment & Attachment Fees ..... \$ 10,422.42

Levy Fees ..... \$ 326.18

Street Assessments ..... \$ -0-

Privilege Licenses ..... \$ 30,218.75

Gross Receipts Tax ..(Tax on Rental Vehicles)..... \$ 52,871.61

**October 6, 2003, MB#49**

NSF Check Charges .....	\$	3,998.66
Interest of 2001 and Prior Years .....	\$	179,972.79
Prior Years 1991 to 2000...(Pr & FD Taxes) .....	\$	458,690.44
Prepaid Tax Distribution on 2002 County Tax .....	\$	47,680.98
Fees for Deed and Map Copies .....	\$	2,781.85

\* Municipal Collection Charges:

Cities @ \$3.15/bill & \$2.68/bill Out of County..	\$	125,963.17
Cities Fees of 1 1/2% on Auto Tax Collected ....	\$	40,482.43
Vehicle Tax Collected for County .....	\$	6,169,978.91
Interest on Vehicle Tax .....	\$	90,179.00
15% Revenue Loss / NC Dept of Revenue ...Did Not Receive	-0-	
Inventories Tax Reimbursement / NC Dept Revenue	\$	-0-

\* MUNICIPAL COLLECTION CHARGES

Brookford	307 Bills x \$3.15 =	\$	967.05
Catawba	628 Bills x \$3.15 =	\$	1,978.20
Claremont	1,110 Bills x \$3.15 =	\$	3,496.50
Conover	4,827 Bills x \$3.15 =	\$	15,205.05
Hickory	20,903 Bills x \$3.15 =	\$	65,844.45
	86 (Burke County) Bills		
	x \$2.68 =	\$	230.48 **.... \$ 66,074.93
Long View	2,559 Bills x \$3.15 =	\$	8,060.85
	428 (Burke County) Bills		
	x \$2.68 =	\$	1,147.04 **.... \$ 9,207.89
Maiden	2,105 Bills x \$3.15 =	\$	6,630.75
Newton	<u>7,112</u> Bills x \$3.15 =	<u>\$</u>	<u>22,402.80</u>
TOTALS	40,065 Bills		\$125,963.17

\*\* No data processing was done by Catawba County's ITC for these Burke County Bills. \$2.68 represents the cost of collection.

MUNICIPAL COLLECTIONS

As of June 30, 2003

2002/2003      2002 Tax

Real Estate and Personal Property --

City / Town	Levy	Collected	A / R	Percent
Brookford	\$ 90,351	\$ 88,807	\$ 1,544	98.29
Catawba	223,159	217,529	5,630	97.48
Claremont	2,019,528	2,014,554	4,974	99.75
Conover	3,056,853	3,026,897	29,956	99.02
Hickory	20,277,523	20,031,688	245,835	98.79
Long View	998,484	983,249	15,235	98.47
Maiden	1,063,597	1,056,161	7,436	99.30
Newton	3,368,879	3,268,118	100,761	97.01

Vehicle Tax Collected --

	Principal	Interest	Total
Brookford	9,429.87	214.02	9,643.89
Catawba	19,442.70	363.11	19,805.81
Claremont	61,879.38	614.59	62,493.97

**October 6, 2003, MB#49**

Conover	239,599.51	3,136.66	242,736.17
Hickory	1,809,194.53	25,907.02	1,835,101.55
Long View	102,026.87	1,787.02	103,813.89
Maiden	80,606.43	1,419.76	82,026.19
Newton	335,189.17	6,496.55	341,685.72

PRIOR YEARS COLLECTION RESULTS

Fiscal Year	Tax Year	Levy	% Collected
1979/80	1979	11,062,367	91.92
1980/81	1980	11,723,000	97.01
1981/82	1981	12,341,738	97.98
1982/83	1982	12,769,270	98.85
1983/84	1983	14,364,144	99.43
1984/85	1984	15,016,524	99.46
1985/86	1985	15,023,711	99.30
1986/87	1986	17,970,927	99.12
1987/88	1987	17,385,223	99.31
1988/89	1988	17,812,972	99.35
1989/90	1989	21,676,434	99.34
1990/91	1990	22,611,620	99.19
1991/92	1991	27,682,982	99.30
1992/93	1992	28,240,644	99.20
1993/94	1993	28,280,279	99.64
1994/95	1994	29,570,920	99.61
1995/96	1995	33,664,697	99.61
1996/97	1996	34,868,643	99.57
1997/98	1997	37,850,343	99.50
1998/99	1998	39,189,655	98.98
1999/2000	1999	47,323,073	98.76
2000/2001	2000	49,092,961	98.53
2001/2002	2001	51,214,653	98.52
2002/2003	2002	53,182,726	98.47

Commissioner Hunsucker made a motion to accept the report. The motion carried unanimously.

c. Sheriff's Department:

1. 2003 Local Law Enforcement Block Grant.

Business Manager Sheriff's Office Jennifer Sumpter said the Sheriff's Office applied for and received the 2003 Local Law Enforcement Block Grant in the amount of \$20,077 with a required cash match of \$2,231 (from Narcotics Seized Funds). Grants under this program can be used for virtually any purpose that supports law enforcement agencies and their officers. Agencies are required to accept the grant along with its assurances and certifications within 45 days of the award and draw down funds within 90 days. The special conditions of the grant require, prior to drawing down or obligating any grant funds, an advisory committee be formed with representation from specific groups to make non-binding suggestions on how the funds should be spent and that a public hearing be held to allow the public a chance to comment on the proposed uses of the funds. The following are the required groups for representation on the advisory committee along with the current representatives:

the local police department or local sheriff's department: Major Coy Reid, Catawba County Sheriff's Office

the local prosecutor's office: James Gaither, District Attorney's Office

the local court system: Judge Greg Hayes, District Court Judge

the local school system: Rick Sherrill, Catawba County Schools

a local nonprofit, educational, religious, or community group active in crime prevention or drug use prevention or treatment: Rev. Don Bledsoe, Covenant Christian Church

The Advisory Committee, along with Jennifer Sumpter, the designated LLEBG contact, met Tuesday, September 23, and approved the following proposed the following uses of the funds:

- Tasers: For use in Patrol, Warrant, and Transport Divisions to provide officers with a non-lethal means of controlling and/or subduing a suspect (\$5,391)
- STAR Team Van Equipment: Funds will be used to equip the new STAR Team van to be purchased through Homeland Security Funds received by Emergency Management. (\$8,217)
- Digital Cameras: New higher resolution digital cameras for Investigations to take better quality photos at crime scenes. (\$2,100)
- Negotiator Team Van Equipment: Portable Radio, Bullhorn, and Siren. (\$700)
- SOS Team Equipment: Handheld GPS System. (\$400)
- Mobile Data Terminal: One MDT to be used by Civil Division. (\$5,500)

Ms. Sumpter said the Finance and Personnel Subcommittee recommended that the Board of Commissioners accept the award of the 2003 Local Law Enforcement Block Grant from the U.S. Department of Justice/Bureau of Justice Assistance in the amount of \$20,077 and appropriate the grant funds along with the required cash match of \$2,231 as follows. The grant is contingent on the Commissioners conducting a public hearing at its October 20, 2003, regularly scheduled meeting to hear public comment. Per the requirements of the grant no funds will be obligated until the special conditions are met and the request for draw down is complete.

**SUPPLEMENTAL APPROPRIATION:**

Revenue

110-210050-620325	LLEBG 2003		\$20,077
110-190900-695205	From Narcotics Seized Funds	\$2,231	
205-210250-690100	Fund Balance Applied		\$2,231

Appropriation:

110-210050-870100	Small Tools & Minor Equipment	\$16,808
110-210050-870150	Small Tools DP Equipment	\$5,500
205-210250-995110	To General Fund	\$2,231

Commissioner Lail made a motion to accept the award of the 2003 Local Law Enforcement Block Grant in the amount of \$20,077 and appropriate the grant funds along with the required cash match of \$2,231 and call for a public hearing at the regularly scheduled meeting on October 20, 2003 to accept public comment. The motion carried unanimously.

**At 10:10 a.m. Commissioner Beatty arrived.**

2. Architect Selection - Catawba County Jail Expansion.

Mental Health Director John Hardy said the current Catawba County Jail is part of, and represents approximately 30 percent (27,000 square feet) of, the space of the total Justice Center located on the County Government Center Campus. Average daily inmate populations experienced at the existing Jail in Newton have continuously exceeded its capacity for some time. This, despite the fact that the County, has for the past eight years also shared additional jail space with Burke County in the jointly owned facility in Morganton known as the Burke-Catawba District Confinement Facility (BCDCF). A study of jail needs and possible development options for the expansion of the County Jail Space was prepared by Solutions for Local Government, Inc., Charlotte.

The study prepared by Solutions for Local Government recommended the following:

Provide 200 total jail beds using existing Jail facility and building additional space.

- Provide 128 new jail beds
- 48-bed Initial Housing Unit
- 32-bed Special Management/High Security Housing Unit
- 48-bed General Purpose/Medium Security Housing Unit

Renovations and utilization of existing Jail facility would accommodate

- 48-bed Female Housing Unit
- 24-bed Male less than 18 years old Housing Unit

Total Jail beds available at Newton Facility:	200
Jail beds remaining available at DCF:	79
Total Jail beds available upon completion:	279

The full cost of the project is yet to be determined. \$800,000 is funded for this project for fiscal year 2003/04, the balance will be funded with Certificates of Participation issued next fiscal year.

The solicitation of an architectural firm is governed by North Carolina General Statute 143-64.31. Local governments are required to (1) announce all requirements for architectural services; (2) select firms qualified to provide such services on the basis of demonstrated competence and qualifications for the type of professional services required, without regard at the preliminary stage to the firm's fee, other than unit price information; and (3) thereafter to negotiate a contract for the architectural services with the best-qualified firm. If a contract cannot be negotiated with that firm, negotiations are to be initiated with the next best-qualified firm.

On July 10, 2003, Request for Qualifications (RFQ) were sent to numerous architectural firms, the RFQ advertised in the newspaper and posted on the County's WEB site. On August 18, 2003, fifteen qualification statements were received. The Jail Committee consisting of Sheriff David Huffman, Lt. Mike Hale, John Hardy, Rodney Miller and Debbie Anderson reviewed the RFQ's and narrowed the list to eight for further consideration. Reference checks were conducted for the eight firms and based on the references; the list was then narrowed to six. The six remaining firms were invited to tour the current jail facility and to make an oral presentation to the Jail Committee. The six firms include:

- Little Diversified Architectural Consulting, Charlotte
- Kahn-Brennan Alliance, Columbia, SC
- Moseley Wilkins & Wood, Charlotte
- OBrien Atkins, Research Triangle Park
- Pease Associates, Charlotte
- Ware Bonsall Architects, Charlotte/CBSA, Hickory

After the oral presentations, the firms were short-listed again with the following ranking:

1. Little Diversified Architectural Consulting, Charlotte
2. OBrien Atkins, Research Triangle Park
3. Kahn-Brennan Alliance, Columbia, SC

Little Diversified is the recommended firm for the Jail Expansion Project based upon these important factors.

-They assembled the best team with skill and good experience in jail design, jail construction, jail management and security technologies. They fully understand the interplay between design and the operations of a secure facility. They have effectively addressed the use of direct and indirect inmate supervision approaches to assure maximum safety and minimal operational costs.

-The full design team consisted of:

Little Diversified Architectural Consulting  
HOK (Justice/Detention Design Consultant & Architecture)  
Latta Technical Services (Electronic Security)  
Foodesign (Food & Laundry Design Consultant)  
Harris Associates (Cost Estimating)

-They are experienced in the pre-qualification of contractors, to assure that only those with jail construction experience bid on the job. Jail and prison construction is not the same as standard school or office construction and requires a different level of construction know-how.

-They come well referenced with satisfied customers on previous jail projects in North Carolina and Virginia.

-They have anticipated how to organize a construction project while operating a secure facility. They are clear on what it will take to accomplish new construction and to renovate existing space, all while maintaining the operation of an existing space.

- They were the only firm to look at the GIS system to fully understand the topography, hidden utilities, and sewer lines.
- They have a strong history of bringing projects in within budget.
- They will use an independent cost estimator, Harris Associates, to assure tight control on construction costs.
- They will charge an architectural fee of 6.5% on new construction and 7.7% for the renovation portion of the project, anticipated fees for similar projects of this nature are within the 8%-12% range. The estimated cost of this contract should be \$956,405.
- They have the capacity to meet the tight timeframes associated with this project.

Project Oversight:

It is recommended that two approaches be used to oversight the complexities of this project. The first is to assure that the project design reflect the previous work done by Steve Allan and that both his program design and the actual facility design merge into one viable project. It is recommended that Solutions for Local Government (Steve Allan) be retained to be a part of the project team. The estimated cost for Steve Allan is 50 hours for \$4,000.

Second, it is recommended that a project manager be hired to assure that the interest of the owner be fully represented during the staging, construction and initial operational phases. At this point no formal recommendation is being proposed until there is an opportunity to explore a variety of options. Some options to be considered include purchase of project manager through the architect's firm, contracting with a third party construction management firm, or a direct hire of a project manager.

The Policy and Public Works Subcommittee recommended that the Board of Commissioners authorize the contracting with Little Diversified Architectural Consulting for the Jail Expansion Project for a cost of \$956,405 and to retain Solutions for Local Government (Steve Allan) for approximately 50 hours at \$4,000. A survey and soil testing will need to be conducted as soon as possible, that cost is estimated at \$30,000. Staff further requests the Board authorize a supplemental appropriation of \$190,405 (\$156,405 + \$4,000 + \$30,000) to be added to the current \$800,000 identified for this project for a total of \$990,405:

Jail Expansion Project 410 460100 986000 12002	\$190,405
Transfer to General Capital Project Fund 110 190900 995410	\$190,405
Transfer from General Fund 410 460100 695110	\$190,405
Fund Balance Appropriated 110 190050 690100	\$190,405

Commissioner Hunsucker made a motion to authorize the contracting with Little Diversified Architectural Consulting for the Jail Expansion Project for a cost of \$956,405 and to retain Solutions for Local Government (Steve Allan) for approximately 50 hours at \$4,000 and approve the aforementioned supplemental appropriation. The motion carried unanimously.

d. Personnel Department:

1. Personnel Code Revision.

Personnel Director Debbie Bradley said the current code had been in place for many years, with different sections added and updated as needed. Some of the language needs to be updated and some practices need to be put into the code. The sequence of the sections is changed for ease in review, with like sections together. The language is changed and updated in many section to more closely reflect current federal rules, and to more clearly define the current practices. The Finance and Personnel Subcommittee recommended that

the Board of Commissioners adopt the amendments to Chapter 28 of the Catawba County Code, which is commonly called the Personnel Code.

**Ordinance No. 2003-19**

BE IT ORDAINED that Chapter 28, Personnel, of the Catawba County Code is hereby amended to read as follows (Articles X-XII are unchanged):

Chapter 28  
PERSONNEL\*

Article I. In General

- Sec. 28-1. Definitions.
- Sec. 28-2. Merit principle.
- Sec. 28-3. Responsibility of board of commissioners.
- Sec. 28-4. Responsibility of county manager; ~~personnel director.~~
- Sec. 28-5. ~~Applicability.~~ Responsibility of the personnel director.
- Sec. 28-6. ~~County defense of employees.~~ Applicability.
- ~~Sec. 28-7. Safe workplace policy.~~
- Secs. 28-8 7 – 28-35. Reserved.

Article II. ~~Classification Plan~~

Equal Opportunity Policy

- Sec. 28-36. ~~Coverage.~~ Policy Statement.
- Sec. 28-37. ~~Allocation of positions.~~ Responsibilities.
- Sec. 28-38. ~~Maintenance.~~ Goals and objectives.
- Sec. 28-39. ~~Classification of new positions.~~ Policy dissemination.
- Sec. 28-40. ~~Amendment~~ Program evaluation.
- Secs. 28-41—28-65. Reserved.

Article III. ~~Wage and Salary Administration~~

Classification Plan

- Sec. 28-66. Coverage of the ~~salary plan.~~
- Sec. 28-67. Maintenance of salary plan. Allocation of positions.
- Sec. 28-68. Transition to new plan. Administration of classification plan.
- Sec. 28-69. Payment at listed rate. Amendments to positions.
- Sec. 28-70. Entrance at minimum. Classification of new positions.
- Sec. 28-71. Salary of trainee/work against. Amendment to classification plan.
- Sec. 28-72. Salary of part-time employee.
- Sec. 28-73. ~~Pay periods.~~
- Sec. 28-74. Salary adjustments.
- Sec. 28-75. Salary at separation.
- Sec. 28-76. Mandatory deductions from salary.
- Sec. 28-77. Advance on wages.
- Secs. 28-78 72—28-105. Reserved.

Article IV. ~~Employment, Compensation and Employee Performance.~~

Wage and Salary Administration

- Sec. 28-106. Applicability. Maintenance of salary plan.
- Sec. 28-107. Recruitment requirements. Administration of the salary plan.
- Sec. 28-108. Eligibility for employment. Hiring or starting salary
- Sec. 28-109. Employment categories. Salary of trainee/work against.
- Sec. 28-110. Resignation. Salary of part-time employee.
- Sec. 28-111. Appointment of department directors and heads. Pay periods.
- Sec. 28-112. Hours of operation. Salary adjustments.
- Sec. 28-113. Fair labor standards. Salary at separation.
- Sec. 28-114. ~~Workweek.~~ Deductions from salary.
- Sec. 28-115. ~~Overtime for certain nonexempt employees.~~ Overtime policy.



Sec. 28-116. ~~Compensatory time for certain exempt employees.~~ Leave without pay.  
Sec. 28-117. ~~Disciplinary action.~~ Merit awards.  
Sec. 28-118. ~~Performance evaluation.~~ Advance on wages.  
Sec. 28-119 -- ~~145.~~ Probationary period. Reserved.  
Sec. 28-120. ~~Permanent status.~~  
Sec. 28-121. ~~Reduction in force.~~  
Sec. 28-122. ~~Demotion.~~  
Sec. 28-123. ~~Grievance procedure.~~  
Secs. 28-124—28-150. ~~Reserved.~~

Article V. ~~Employee Benefits and Services.~~

Employment, Compensation, and Employee Performance

Sec. 28-151 146. ~~Eligibility.~~ Applicability.  
Sec. 28-152 147. ~~Annual leave.~~ Statement of equal employment opportunity.  
Sec. 28-153 148. ~~Purchase of annual leave.~~ Recruitment requirements.  
Sec. 28-154 149. ~~Sick leave.~~ Eligibility for employment.  
Sec. 28-155 150. ~~Reinstatement and transfer of sick leave.~~ Appointment of department directors and heads.  
Sec. 28-156 151. ~~Civil Leave~~ Transfers.  
Sec. 28-157 152. ~~Military leave.~~ Flexible Promotions  
Sec. 28-158 153. ~~Leave during inclement weather; emergency closing.~~ Conditional offer of employment.  
Sec. 28-159 154. ~~Leave without pay.~~ Employment categories.  
Sec. 28-160 155. ~~Employee education.~~ Resignation.  
Sec. 28-161 156. ~~Holidays~~ Fair labor standards.  
Sec. 28-162 157. ~~Other benefit programs~~ Compensatory time for FLSA exempt employees.  
Sec. 28-163 158. ~~Law enforcement officers' additional benefits~~ Workweek.  
Sec. 28-164 159. ~~Retirement~~ Work schedule.  
Sec. 28-165 160. ~~Longevity award~~ Work schedule recordkeeping.  
Sec. 28-166 161. ~~Employee recognition~~ Overtime.  
Sec. 28-167 162. ~~Merit awards~~ Disciplinary action.  
Sec. 28-168 163. ~~Self-insurance fund~~ Performance evaluation.  
Sec. 28-164. Delay of performance evaluation, including probation  
Sec. 28-165. Probationary period.  
Sec. 28-166. Permanent status.  
Sec. 28-167. Reduction in force.  
Sec. 28-168. Demotion.  
Sec. 28-169. Secondary or outside employment.  
Sec. 28-170. Grievance Procedure.  
Secs. 28-169 171—28-195. ~~Reserved.~~

Article VI. ~~Personnel Records and Reports.~~

Employee Benefits and Services

Sec. 28-196. ~~Personnel records; access to public information; privacy act~~ Eligibility.  
Sec. 28-197. ~~Public and confidential information defined~~ Annual leave.  
Sec. 28-198. ~~Designation and responsibilities of records custodian~~ Purchase of annual leave.  
Sec. 28-199. ~~Request and review procedure~~ Sick leave.  
Sec. 28-200. ~~Remedies and objections~~ Reinstatement and transfer of sick leave.  
Sec. 28-201. ~~Destruction of records~~ Family and Medical Leave Act.  
Sec. 28-202. Civil Leave.  
Sec. 28-203. Military Leave  
Sec. 28-204. Leave during inclement weather; emergency closing.  
Sec. 28-205. Holidays.  
Sec. 28-206. Retirement.  
Sec. 28-207. Law enforcement officers' additional benefits.  
Sec. 28-208. Longevity award.  
Sec. 28-209. Employee education.  
Sec. 28-210. Benefits for difficult to recruit positions  
Sec. 28-211. Other benefit programs.  
Sec. 28-212. County defense of employees.  
Sec. 28-213. Safe workplace policy.

Sec. 28-214. Workplace violence.  
Sec. 28-215. Safety, including occupational safety and health act.  
Sec. 28-216. Accidents involving county equipment.  
Sec. 28-217. Reporting injuries.  
Sec. 28-218. Merit awards.  
Secs. 28-202 219—28-230 243. Reserved.

#### Article VII. Conflict of Interest and Political Activities

Sec. 28-231 244. Applicability.  
Sec. 28-232 245. Political activity restricted.  
Sec. 28-233 246. Confidential information Gifts and favors.  
Sec. 28-234 247. Gifts and favors Duty to disclose.  
Sec. 28-235 248. Duty to disclose Violations.  
Sec. 28-236. Conflicting employment  
~~Sec. 28-237. Violations.~~  
Secs. 28-238 249—28-265 274. Reserved.

#### Article VIII. State and Federal Compliance

Sec. 28-266 275. Privacy Act Employment policy against unlawful workplace harassment.  
Sec. 28-276. Americans with Disabilities Act.  
~~Sec. 28-267. Employment policy against workplace harassment.~~  
~~Sec. 28-268. Mandatory retirement age.~~  
~~Sec. 28-269. Americans with Disabilities Act.~~  
~~Sec. 28-270. Fair Labor Standards Act.~~  
~~Sec. 28-271. Unemployment compensation.~~  
~~Sec. 28-272. Family and Medical Leave Act.~~  
~~Sec. 28-273. Occupational Safety and Health Act.~~  
~~Sec. 28-274. Accidents involving county equipment.~~  
~~Sec. 28-275. Reporting accidents.~~  
Secs. 28-276 277—28-300 302. Reserved.

#### Article IX. Equal Employment Opportunity Policy Personnel Records

Sec. 28-301 303. Policy Statement Confidential information.  
Sec. 28-302 304. Responsibilities Personnel records; access to public information; privacy act.  
Sec. 28-303 305. Goals and objectives Public and confidential information defined.  
Sec. 28-304 306. Policy dissemination Request and review procedure.  
Sec. 28-305 307. Program evaluation Remedies and objections.  
Sec. 28-308. Destruction of county records.  
Sec. 28-309. Privacy policy.  
Secs. 28-306 310—28-330 Reserved.

#### Article X. Operations Standards for Drivers of Vehicles Used for County Business

Sec. 28-331. Definitions.  
Sec. 28-332. Responsibilities of risk manager.  
Sec. 28-333. Authorization.  
Sec. 28-334. Maintenance.  
Sec. 28-335. Accident prevention.  
Sec. 28-336. Accident reporting and review.  
Secs. 28-337--28-365. Reserved.

#### Article XI. Travel Policy for County Employees or Officials

Sec. 28-366. Purpose.  
Sec. 28-367. Definitions.  
Sec. 28-368. Guidelines.  
Sec. 28-369. Transportation.  
Sec. 28-370. Subsistence.  
Sec. 28-371. Reimbursement procedures.

Secs. 28-372--28-400. Reserved.

## **Article XII. Veterans Service Officer**

Sec. 28-401. Employment authorized.

Sec. 28-402. Definitions.

Sec. 28-403. Rules and regulations authorized.

Sec. 28-404. Duties.

Sec. 28-405. Notarial authority.

## **ARTICLE I. IN GENERAL**

### **Sec. 28-1. Definitions.**

The following words, terms and phrases, when used in articles I through VIII of this chapter, with the exception of section 28-272 ~~201~~ pertaining to family and medical leave, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adverse action* means an involuntary demotion, an involuntary reduction in pay, an involuntary or transfer, a suspension without pay, reduction in force, or a dismissal.

*Allocation* means the approval of a position by the appropriate authority based upon the needs of the county.

*Anniversary date* means The an employee's original date of uninterrupted employment with the county service in a permanent position.

*Annual increment* means a salary increase as determined by the applicable salary plan and the county's annual budget.

~~for purposes of that employee's relationship to the vacant position.~~

*Applicant* means one who ~~places himself in competition~~ applies for a vacant position ~~and by virtue of~~ completing and submitting an application for employment regardless of current employment status (e.g., a current county employee becomes an applicant when an application for another position is submitted) ~~for purposes of that employee's relationship to the vacant position).~~

*Appointing authority* means any board or official with the legal authority to make hiring decisions.

*Board of commissioners* means the local government unit charged with the legislative affairs of the county.

~~Classification.~~ *Class* means a position or group of positions having similar duties and responsibilities and requiring similar qualifications, which can be properly designated by ~~one a single group one title~~ indicative of the nature of work performed and having the same treatment with respect to salaries. ~~similar salaries. having the same treatment with respect to salary.~~

*Classification plan* means a systematic plan of ranking groups of ~~classifications~~ classes based on internal comparisons and market surveys of relative duties and responsibilities.

*Compensatory time* means time ~~for time~~ earned by an ~~exempt~~ employee for work in excess of the workweek.

*Close relationship* means Two employees in a mutual relationship, including living together as spouses, dating relationships, etc. (don't you just love this??) a mutually acceptable relationship, including dating, living together as man and wife, co-habitation, or other personal relationship between county employees.

*County manager* means the county manager, which is the highest level of supervision and highest administrative official of county government and who is appointed by the board of commissioners.

*Demotion* means a change in job responsibility to another position of lesser responsibility and a lower salary grade.

Demotion, involuntary means the reassignment of an employee to a position or a classification having a lower salary range than the position or the classification from which the reassignment is made due to performance or conduct problems.

Demotion, voluntary means when an employee requests a move to a position assigned a lower grade, and the move is mutually agreed between the employee and the County.

Director or department head means the highest level of supervision or top administrative official of a department of county government.

Downgrade means a change that results in a lower grade being assigned to a position based on duties, responsibilities, reorganization, or market surveys.

Flexible promotions: a temporary assignment made to a current county employee which is a promotion or a lead worker assignment. The assignment is made with the understanding if, up to six months from the date of assignment, if the change is not in the best interest of the employee then the employee may return to the former classification.

FLSA (Fair Labor Standards Act) ~~overtime~~ means the federal Fair Labor Standards Act, which addresses exempt and nonexempt status of employees, and rules of compensatory time and/or overtime for extra hours worked by nonexempt employees. ~~time earned at a rate of time and one-half by a nonexempt employee for hours worked in excess of 40 hours in a workweek or in the case of law enforcement in excess of 171 hours in a 28 day cycle.~~

~~FLSA straight time means time for time earned by a nonexempt employee for hours worked in excess of eight hours in a work day but not in excess of 40 hours in a workweek.~~

Full-time equivalent (FTE) means the number of hours worked per annum in relationship to a full-time position. An employee appointed to a permanently established position who is regularly scheduled to work forty (40) hours or more per workweek, is paid on a salary basis, and is designated as full-time.

Grade means the numerical value assigned to a pay range.

Grievance means when certain specified Any matters of concern or dissatisfaction of an employee, allegedly arising from working conditions of an employee.

Harassment means any unwelcome comment or treatment made because of race, sex, creed, religion, national origin, age, color, or ~~handicapping condition~~ disability that creates a hostile work environment or circumstance. This term includes sexual harassment.

Hiring rate means the salary paid an employee when hired. ~~into a position.~~

Hostile work environment means an environment which a reasonable person would find hostile or abusive and that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at several circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and how it interferes with an employee's work performance or working conditions.

Immediate family means wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepbrother, stepsister, or ~~as otherwise approved by the department head.~~ persons living together in a close personal relationship or as otherwise approved by the department head.

~~Manager means the county manager, which is the highest level of supervision and highest administrative official of county government and who is appointed by the board of commissioners.~~

~~Persons living together as husband and wife or other consensual relationship.~~

**Merit principle** means a systematic and uniform method of personnel administration based on equal employment opportunity principles. ~~designed to provide objective recruiting, employment, retention, and promotion of those persons best qualified, all other factors excluded. recruiting, employment, retention, and promotion of those persons best qualified all other factors excluded.~~

~~Part-Time~~ means an ~~EMPLOYEE~~, hourly compensated employee or position to which an hourly compensated employee is assigned, ~~which is~~ The employee is regularly scheduled for to work less than forty (40) hours of work per workweek and/or less than 52 weeks per calendar or fiscal year. is paid on an hourly basis, and is designated as such.

Performance evaluation system means the system utilized to review an employee's performance.

Permanent employee means an employee, except those employed by the sheriff and the register of deeds, who has satisfactorily completed a ~~satisfactory~~ probationary period, and has been approved for permanent status by his or her department head. If the employee hired is designated as a trainee or is assigned to a "work against" position, the employee shall also satisfy the minimum education and work experience requirements of the position before attaining permanent status.

Permanent full-time position means a position that has been approved by the board of commissioners, the duties and responsibilities of which are required to be performed on a continuous basis, normally requiring full-time employment of an individual.

Permanent part-time position means a position that has been approved by the board of commissioners; the duties and responsibilities of which are normally ~~required~~ to be performed in less than a regular work day and/or workweek.

Permanent position means a position that has been approved by the Board of County Commissioners and which has recurring duties and responsibilities of continuing duration. All rights and privileges of employment as set forth in this chapter attach to such position unless the section specifies otherwise.

Permanent status means an employee, except those employed by the sheriff and the register of deeds, who shall attain permanent status when the employee has worked the required nine month probationary period or condition of transfer. If a trainee, the employee shall also satisfy the minimum education and work experience requirements of the position before attaining permanent status. Permanent status is waived when an employee who has reached permanent status is transferred, promoted or demoted to a position for which he must be a trainee.

Position means a group of duties and responsibilities assigned to a department based upon the needs of the county which may be performed by one or more employees normally –not to exceed the full-time equivalent (FTE) of the position.

Position classification plan means a plan approved by the Board of Commissioners that assigns classes or positions to the appropriate pay grade.

Prior service credit means a ~~unitized (months and years)~~ system for of determination for benefits and eligibility, based on equivalent prior service to the county; or for employment based on service to other organizations.

Probationary employee is an individual appointed to a permanent position who has served less than nine (9) months in the position, or who has otherwise not completed specified prerequisites for attaining permanent status. This may be based on initial hire, promotion, or transfer into another position.

Promotion means ~~a change in job responsibility to a position of higher responsibility and a higher salary grade as a result of an employee becoming an applicant and being selected to fill a vacant position.~~ the reassignment of an employee to an existing to a position or classification in the County organization having a higher salary range than the position from which the reassignment is made.

Quid pro quo harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Reassignment means an intradepartmental change of duty assignment within the same grade and based upon needs of the department in their ~~the~~ discretion of the department head.

*Reclassification* means a change in a position from one class to another based on changes in job content, such as duty, kind, difficulty, required skill, responsibility of the work performed, reorganization, or market surveys. ~~job content such as duty, kind, difficulty, required skill, responsibility of the work performed, reorganization, or market surveys. The reassignment of an existing position from one class to another based on changes in job content. the complexity and responsibility of, and the skill required to perform the essential functions of the position.~~

*Reduction in force* means the abolishment of or reduction of all position or some portion of a position based on needs of the organization, work load, and availability of funding.

*Reorganization* means, due to changes in the organizational needs of a the department, the duties and responsibilities or technological requirements of a position may be reclassified, and a position may be abolished in full or in part, or created according to county policy. ~~according to county policy.~~

*Retaliation* means any form of adverse treatment that occurs because of ~~opposition to unlawful workplace harassment treatment that occurs because of opposition to unlawful workplace harassment, or as an adverse reaction to a lawful and protected~~ action by an employee.

*Salaried employee* means an employee who is appointed to an officially budgeted position with benefits.

Salary grade means that all positions that are sufficiently comparable to warrant one range of pay rates.

*Salary plan* means the salary range assigned to each salary grade.

*Salary plan revision* means the uniform raising or lowering of salary ranges within the salary plan.

*Salary range* means the salary assigned to each grade of the salary plan, including ~~below minimum, trainee, minimum, and maximum annual salaries. including below minimum, trainee, minimum, and maximum annual salaries.~~

*Salary schedule* means a listing by grade and step of all the approved salary ranges authorized by the board of commissioners for various positions of the county.

Service credit means time reflected for certain benefits that includes current hire date plus credit for previous service to Catawba County government.

*Sexual harassment* means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when such conduct is made a term or condition of an individual's employment or a rejection of such conduct by an employee is used as a basis for future employment decisions affecting such individual or when such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment for an employee or group of employees.

*Temporary employee* means an individual appointed to serve in a position for a definite duration. ~~but~~

*Temporary position* means a position for which the duties and responsibilities are ~~required based upon~~ required based upon -the needs of the county for ~~specified~~ a specified period of time.

*Time-limited position* means a position, which may or may not be permanent, approved for a specified period of time, with a defined ending date.

*Trainee* means an employee who does not meet minimum education or experience requirements for a position but can within a specified period meet the minimum requirements.

*Transfer* means the ~~a change of duty assignment as a result of the employee becoming an applicant and being selected for a vacant position~~ reassignment of an employee from one position or department to another.

*Unlawful workplace harassment* means unwelcome or unsolicited comments or conduct based upon race, sex, creed, religion, national origin, age, color, or disabling ~~handicapping~~ condition as defined by N.C.G.S. 168A-3 that creates a



hostile work environment or circumstances involving quid pro quo. This term includes sexual harassment ~~or circumstances involving quid pro quo. This includes sexual harassment.~~

*Upgrade* means a change that results in a higher grade being assigned to a position with the same job responsibility.

*Work against* means when an employee does not meet minimum requirements of ~~the~~ the position and there are lower levels in the series of that classification, ~~then~~ the employee may be assigned to ~~the~~ the level of the series for which he is qualified and may "work against" the experience and educational requirements of the higher level position in of the series.

(Code 1995, §270.001; Ord. No. 2002-05, §270.001, 7-8-2002)

**Cross reference** – Definitions generally §1-2.

#### **Sec. 28-2. Merit principle.**

All appointments and promotions of county employees shall be made solely on the basis of merit, and fitness and occupational qualifications without regard to politics, sex, race, color, age, non-disqualifying disability, religious affiliation or national origin. The county follows generally accepted classification principles that guarantee that equal pay opportunities are provided for all positions of equal responsibility.

(Code 1995, §270.002)

#### **Sec. 28-3. Responsibility of board of commissioners.**

The board of commissioners shall establish personnel policies, approve the pay plan, approve all new positions and new classifications, and shall make and confirm appointments when required ~~so specified~~ by law.

(Code 1995, §270.003)

#### **Sec. 28-4. Responsibility of county manager; ~~personnel director~~.**

(A) The county manager shall be responsible to the board of commissioners for the administration of the personnel program and shall have full responsibility for all personnel functions.

#### **Sec. 28-5. Responsibility of the personnel director.**

(B) The county manager shall appoint a personnel director who shall assist in the preparation, ~~administration, and maintenance~~ and administration of the position classification plan and the ~~salary-pay~~ plan, and perform such other duties in personnel administration in connection with a modern personnel program as the manager shall require. ~~such as:~~

~~(1) Apply, interpret, and carry out this chapter and the policies adopted thereunder as directed by the Manager.~~

~~(2) Establish and maintain a personnel file for each county employee containing relevant employment data.~~

~~(3) Foster and develop programs for the improvement of the employee effectiveness.~~

~~(4) Encourage and exercise leadership in the development of effective personnel practices within the various county departments and to make available the facilities of the Personnel department to this end.~~

~~(5) Recommend rules and revisions of the personnel system to the Manager for consideration.~~

~~(6) Make such reports to the Manager as the Director may consider desirable or as may be designated by the Manager.~~

~~(7) Develop and administer such recruiting programs as may be necessary to obtain an adequate number of competent applicants to meet the needs of the county.~~

~~(8) Perform such other duties as may be assigned by the Manager not inconsistent with this policy.~~

(Code 1995, §270.004)

#### **Sec. 28-5. 6. Applicability.**

This chapter shall be applicable to the following classes of employees:

(1) Employees of the sheriff and register of deeds serve at the will of those officials. The sheriff and register of deeds shall be subject to the provisions of this chapter, except that they shall have the right to hire and discharge employs in their respective departments under the authority of G.S. 153A-103.

(2) Employees of the department of human ~~resources~~ services agencies (social services, mental health and public health) shall be subject to the provisions of this chapter, except that they shall have the additional requirements set forth by the state under G.S. 126-1 et seq.

(3) Employees of the cooperative extension service whose annual compensation is supplemented by state and federal funds shall be subject to all sections of this chapter, except those provisions which conflict with that memorandum of understanding (MOU) executed between the county and the state cooperative extension service.

~~(A) Employees of the Sheriff and Register of Deeds serve at the will of those officials. The Sheriff and Register of Deeds shall be subject to this chapter, except that they shall have the right to hire and discharge employees in their respective departments under the authority of G.S. § 153A-103.~~

~~(B) Employees of the Department of Human Resources agencies shall be subject to the provisions of this chapter, except that they shall have the additional provisions set forth by the state under G.S. §§ 126-1 et seq.~~

~~(C) Employees of the cooperative extension service whose annual compensation is supplemented by state and federal funds shall be subject to all provisions of this chapter except those provisions which conflict with that memorandum of understanding executed between the county and the North Carolina Cooperative Extension Service. (See Ch. 32.)~~

(4) Employment by all other employees of county government is governed by this chapter.  
(Code 1995, §270.005)

**Sec. 28-6. County defense of employees. (moved to 28-212)**

~~(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.~~

~~Officer and employee mean present or past members of the board, officers, or employees and present or past appointed members of county boards, agencies, committees and commissions who might have claims or judgments entered against them.~~

~~(b) It shall be the policy of the county to defend its officers and employees acting in good faith within the scope of employment or duties against civil claims or judgments and to satisfy such either through the purchase of insurance or otherwise. Further, the county will not defend a claim or lawsuit or pay a claim or judgment when the officer or employee willfully:~~

~~(1) Acts or fails to act because of actual fraud, corruption or actual malice.~~

~~(2) Acts or fails to act as a result of or at a time when his self-indulgence substantially impairs his judgment (as, for example, an officer or employee who causes damage or injury while intoxicated or under the influence of drugs while on the job or participating in one's public capacity).~~

~~(3) Acts or fails to act, except in emergencies or the existence of extenuating circumstances, directly contrary to instruction from his supervisor or directly contrary to advice of the county attorney.~~

~~(4) Acts or fails to act in such manner as to constitute a criminal act (as for example, misappropriation of property or funds).~~

~~(c) The county manager shall determine whether a claim or suit filed against an officer or employee meets the requirements specified in this section for providing a defense for such officer or employee. If the county manager determines that a claim or suit does not meet the requirements specified in this section, the affected officer or employee may appeal such determination to the board of commissioners. The board shall afford the officer or employee a hearing on the matter and shall decide whether the claim or suit meets the requirements of this section.~~

~~(d) The policies specified in this section shall not be applicable unless notice of the claim or suit is given to the board of commissioners through the county manager or county attorney prior to the time the claim is settled or civil suit is litigated and judgment is entered.~~

~~(e) This section shall not be interpreted in any way to relieve an insurance company of its obligations under any insurance policy to protect the interests of any insured under the policy or to reduce or eliminate the rights of any officer or employee of the county against any other party. Except as expressly stated, this section is not to be interpreted as a waiver of any right or defenses the county has or may have against any party; nor shall the adoption of this section be construed to waive the defense of governmental immunity.~~

~~(Code 1995, §270.006)~~

**Sec. 28-7. Safe workplace policy. (moved to 28-213.)**

~~County government is committed to making reasonable efforts to provide a safe working environment for its employees. It is expected that all county employees will adhere to this policy. The communication of threats, verbal harassment, physical assaults, or other forms of inappropriate behavior will not be condoned. Employees found in violation will be subject to appropriate discipline as provided for in articles I through VIII of this chapter. Other persons found violating this policy may, at the discretion of the county manager, be reported to the appropriate law enforcement authorities for criminal prosecution.~~

~~(Code 1995, §270.007)~~

**Secs. 28-8 ~~7~~ –28.35. Reserved.**



ARTICLE. CLASSIFICATION PLAN. II EQUAL EMPLOYMENT OPPORTUNITY POLICY

**Sec. 28-301 36. Policy statement.**

- (a) The equal employment opportunity plan reaffirms the active commitment of the county to equal opportunity employment. It is the purpose of this plan to set forth a positive policy of equal opportunity in all county programs and employment. The county voluntarily executes this plan in compliance with federal, state, and local laws; executive orders; and regulations prohibiting discrimination in employment practices with regard to race, color, religion, sex, national origin, disability, handicapping condition, age, or political affiliation. It is also done to assist in the identification and elimination of any employment practice which may result in treatment that is disparate or that has a discriminating effect.
- (b) The county manager shall have overall responsibility for the administration of this equal employment opportunity program. The personnel director is charged with the day-to-day implementation, direction, and continuous evaluation. The personnel director shall present periodic reports on the progress of the program to the county manager. Additionally, all management and supervisory personnel shall be equally responsible for compliance with the equal employment opportunity plan.
- (c) The equal employment opportunity plan embraces all positions in county government.

(Code 1995, § 271.01)

**Sec. 28-302 37. Responsibilities.**

- (a) The county manager shall be ultimately responsible for the achievement of equal opportunity employment and for the administration of the equal employment opportunity plan. He shall formulate and disseminate directives to department heads to develop goals and assign responsibility for the day-to-day operation and implementation of the plan. The county manager shall inform the board of commissioners on the progress of the plan.
- (b) The personnel director shall be responsible for the following:
  - (1) The day-to-day operation and implementation of the plan, including the development and updating of the written plan.
  - (2) The general direction and/or coordination of the program as established under the plan.
  - (3) The collection, analysis, preparation and dissemination of required reports.
  - (4) Assistance to supervisory personnel in meeting their responsibilities.
  - (5) Establishment of contacts in the community which specialize in recruitment of protected classes.
  - (6) The maintenance of all central personnel records in a manner consistent with applicable employment practices, laws and other requirements of the plan.
  - (7) The development and maintenance of all personnel directives consistent with the plan and applicable laws.
  - (8) Periodic review of the county's classification system, benefits, leave policies, training and career development programs, and other employment practices to ensure that all practices conform with the plan.
- (c) Department directors shall be responsible for working with the personnel director to implement the equal employment opportunity plan within their particular departments to:
  - (1) Establish goals and objectives based on labor market data provided by the personnel director and available job openings;
  - (2) Provide leadership and support in the area of equal opportunity employment; and
  - (3) Endeavor to maintain a positive attitude among employees.
- (d) Supervisory staff shall be responsible for day-to-day compliance with the policies and procedures established under this plan and shall endeavor to maintain a positive attitude among employees.

(Code 1995, § 271.02)

**Sec. 28-303 38 Goals and objectives.**

- (a) The goal of the equal employment opportunity policy is to:
  - (1) Prevent discrimination in employment practices with regard to race, color, religion, sex, national origin,

~~non-disqualifying disability, handicapping condition,~~ age, or political affiliation; and

- (2) Identify and eliminate any employment practice which may result in treatment that is disparate or that has a discriminating effect.
- (b) In order to reach these goals, the following policies are reiterated and/or established:
  - (1) The personnel department shall maintain records and statistical information in support of the equal employment opportunity plan to monitor the program. The information shall include the following:
    - a. Applicant flow by race and/or national origin, sex, and age;
    - b. New employees by race and/or national origin, sex, and age;
    - c. Transfers and promotions by race and/or national origin, sex, and age; and
    - d. Voluntary and involuntary terminations by race and national origin, sex, and age.
  - (2) ~~Handicapping condition~~ Disability information will be used when available. This information as well as age and race and/or national origin may not be provided by applicants or employees.
- (c) The personnel director shall annually prepare an equal employment opportunity report which reflects race and/or national origin and gender of employees by job categories.

(Code 1995, § 271.03)

**Sec. 28-304 39. Policy dissemination.**

- (a) *Notice.* Each county employee and citizen shall be informed of the county's equal employment opportunity policy and management's commitment to that policy through the following means:
  - (1) *Internal.*
    - a. All departments, as well as individuals who request it, will receive a copy of the equal employment opportunity plan.
    - b. Every employee with recruitment, promotion, or supervisory responsibilities will communicate the county's policy to each employee or applicant under his direction.
    - c. The equal employment opportunity policy statement will be posted on bulletin boards in all county buildings and in the personnel department.
    - d. The equal employment opportunity policy and plan will be discussed as part of the employee orientation and all training programs.
  - (2) *External.*
    - a. Advertisements will be communicated to the local news media, employment training institutions, community and minority leaders, minority universities and other recruitment sources that the personnel director deems appropriate.
    - b. All employment advertisements and correspondence will contain the statement that the county is an "equal opportunity employer."
    - c. All subcontractors, vendors, and suppliers will be notified of the equal employment opportunity plan to solicit appropriate supportive action.
- (b) *Monitoring.* A review of current employment practices is essential to identify barriers to equal employment opportunity. The personnel director shall continually monitor the employment process and adjust procedures to ensure that barriers do not exist. The following aspects of the personnel system shall be specifically addressed:
  - (1) *Recruitment.*
    - a. Each department will maintain a coordinated recruitment program with the county personnel department.
    - b. Pre-employment policies and procedures shall be ~~job-related~~ based on essential functions of the position.
    - c. Vacancies which will be filled from within the county work force will be posted via email, Intranet, and posted in areas known to employees. All vacancies for which outside applicants

are considered will be listed with the local job service office of the employment security commission.

- d. Job announcements will be readable, realistic, and accurate in describing minimum requirements for the job, ~~key duties~~ essential functions, physical requirements, job title, salary and application process.
- e. Efforts will be directed toward the local news media, employment training institutions, community minority leaders, minority universities, and other recruitment sources which have contact or represent the interest of other protected classes that the personnel director deems appropriate.

(2) *Selection and placement.*

- a. Selection policies and procedures are designed to ensure objectivity and prohibit discrimination. The personnel department will play a major role in this process. The personnel director shall train those employees involved with application, interview, and selection phases in techniques to accurately determine the job-related qualifications of each applicant. The personnel director shall monitor the process to identify selection techniques which may be discriminatory.
- b. The following steps will ensure equality and objectivity in the selection of the best qualified applicant:
  - 1. Provision of reasonable accommodation of disabled applicants.
  - 2. Removal of all nonjob-related and discriminatory information from the application form.
  - 3. Review of screening procedures, such as tests and interviews, to ensure objectivity and job relatedness.
  - 4. Establishment of a documentation procedure for selections and rejections.
- c. The personnel director will monitor placement policies and work assignments of all new employees. Work assignments will be meaningful, contribute to the attainment of the organization's goals, and offer opportunities for career advancement to the maximum extent possible.

(3) *Promotions and upward mobility.*

- a. All county employees shall receive equal consideration for promotions, transfers, reclassification, salary increases and merits.
- b. All employees shall be encouraged and be permitted to apply for transfers and promotions to enhance their career development and upward mobility. Those employees who apply and are not selected shall be so informed.
- c. The personnel director shall evaluate classification specifications for duties and salary to ensure job relatedness, as necessary adjustments will be made when duties and responsibilities change. The personnel director shall also examine performance rating measures to identify areas where training may be required or where discrimination may exist.

(4) *Personnel actions and benefits.*

- a. All privileges, benefits, and conditions of employment apply to all county employees. The personnel director shall maintain a constant review of all personnel procedures to ensure compliance with this policy.
- b. All employees shall be informed of the grievance procedures in section 28-423 170. Strict compliance with these procedures will promote rapid, fair, and reprisal-free mediation of problems or complaints. These procedures and policies are published and maintained separately in article ~~IV~~ V of this chapter and are available to employees in orientation, at the time of personnel actions and in all county departments. The personnel director shall provide consultation to employees and supervisors regarding these procedures.
- c. The personnel director shall update all supervisory and management staff with information on new laws, programs, and policies pertaining to equal employment opportunity. Each

supervisor shall inform and explain these programs and policies to all employees.

- d. The personnel director shall periodically review the benefits package to ensure that all categories of employee benefits are available to all employees on an equal basis unless otherwise required by law.

(Code 1995, § 271.04)

**Sec. 28-305 40. Program evaluation**

- (a) A comprehensive evaluation of the county's equal employment opportunity efforts is essential to target areas for improvement. The personnel director shall prepare an annual report on the program, recommending changes to the county manager and management staff. With this report, the personnel director shall submit a review of county and departmental equal employment opportunity goals and a listing of problems, accomplishments, and proposed future actions to ensure compliance with the planned objectives.
- (b) The personnel department shall continuously maintain records and statistical information to monitor compliance.
- (c) The personnel department shall conduct exit interviews preceding or following all terminations and transfers between departments. Periodically, the personnel director shall provide a collective report reflecting comments from the interviews to assist the appropriate staff in the administration of the plan.
- (d) The county manager and personnel director shall hold periodic meetings with employees to obtain feedback and suggestions on how to improve the county's compliance with the plan.

(Code 1995, § 271.05)

**Secs. 28-41--28-65. Reserved.**

**ARTICLE II III. CLASSIFICATION PLAN**

**Sec. 28-36 66. Coverage.**

The position classification plan on file in the personnel department shall be the classification plan of the county. This classification plan shall include all classes of positions.

(Code 1995, §270.029)

**Sec. 28-37 67. Allocation of positions.**

The county manager shall allocate each position covered by the classification plan to its appropriate class in the plan.

The director of personnel shall recommend for the County manager's approval allocation of each position covered by the classification plan to its appropriate class.

(Code 1995, §270.030)

**Sec. 28-38 68. Administration ~~maintenance of~~ classification plan.**

(1) The county manager shall be responsible for the administration and maintenance of the position classification plan adopted in this article. so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. Department heads shall be responsible for bringing to the attention of the personnel director any material changes in the nature of the duties, responsibilities, working conditions, or other factors affecting the classification of any existing position. Following the receipt of such information, the personnel director shall restudy the position and report findings and recommendations to the manager.

(2) New positions shall be established upon recommendation of the county manager with the approval of the board of commissioners. The county manager may (1a) allocate assign the new position to the appropriate class within the existing classification plan or (2) establish a new class to which the new position may be allocated assigned, amending the position classification plan accordingly. appropriately.

(3) When If the county manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, he the county manager shall (direct that the existing class specification be revised, (b) reallocate the position to an the appropriate class within an the existing classification plan, or (3) establish a new class to which the position shall may be assigned. allocated

**Sec. 28-39 69. Amendments to positions.**

Classes of positions shall be added to and deleted from the position classification plan by the board of commissioners after consideration ~~based on the recommendation of the county manager . Changes may occur through the budget process as well.~~ or upon consideration of budgetary factors.

(Code 1995, §270.031)

**Sec. 28-39 ~~70~~. Classification of new positions.**

The personnel director, with the approval of the county manager, shall be responsible for studying and making recommendations for the allocations of new positions to the existing classes or to new classes of positions in the county's service.

(Code 1995, §270.032)

**Sec. 28-40 ~~71~~. Amendment to classification plan.**

The county manager is authorized to amend the classification plan by adding, changing, or deleting classes of positions and salary grades based on internal analyses and market surveys within the authorized budget allocation. The manager shall advise the board of commissioners of such amendments. (Code 1995, §270.033)

**Secs. 28-41 ~~72~~ —28-65 ~~105~~. Reserved.**

**ARTICLE III ~~IV~~. WAGE AND SALARY ADMINISTRATION\***

**~~Sec. 28-66 Coverage of the salary plan (included in Sec. 28-66)~~**

~~The salary plan on file in the personnel department shall be the salary plan for the county. This salary plan shall include all grades and salary ranges for the classes of positions in the classification plan. (Code 1995, §270.050)~~

**Sec. 28-67. ~~106~~. Maintenance of salary plan.**

The county manager shall be responsible for the administration of the salary pay plan. The salary pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private and public sectors, in the are, to changes in the cost of living, to financial conditions of the county, and other relevant factors. To this end the county manager shall, from time to time, make comparative studies of all factors affecting the level of salary ranges and shall recommend to the board of commissioners such changes he deems appropriate. as needed.

(a) Each year, prior to the annual budget process, the manager shall review the status of the salary plan and consider any amendments necessary to maintain a current salary structure.

(b) The county manager shall make cost-of- living recommendations to the board of commissioners based upon an annual study of local economic conditions and the financial state of county government.

(c) Each year the county personnel director will conduct a one-third pay study to review pay and classification of select county positions. A recommendation will be made to the county manager. Changes will be implemented subject to available funds.

(Code 1995, §270.051)

**Sec. 28-68. ~~107~~. Administration of the ~~Transition to new salary plan~~.**

The following ~~four~~ ~~four~~ six (6) principles shall govern the transition to a new salary plan: ~~concern about A — if budget gets really bad is this binding?~~

(1) No employee shall receive a salary reduction as a result~~as a result~~ of the~~the~~ transition to a new salary plan.

(2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their dasses; unless the employee is a trainee or work against where the conditions established will prevail. These conditions may include any established by the Office of State Personnel.

(3) All employees being paid at a rate below the maximum rate, but above the minimum rate established for their respective classes, shall be paid at a rate within the salary range.

(4) All employees being paid at a rate above the maximum rate established for their respective classes shall remain at their present salary~~ies~~ as long as the maximum rate is equal to or below the employees' present salaries.

~~(5) The classification and salary pay plan shall meet the requirements of the state competitive system for the county employees subject to that system.~~

(6) All employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classifications, except employees in a "trainee" or "work against" status, or employees whose present salary~~ies~~ is ~~are~~ above the established maximum rate.

(Code 1995, § 270.052)

**~~Sec. 28-69. Payment at listed rate. (included in Sec. 28-107)~~**

~~All county employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classifications, except employees in a trainee or work against status or employees whose present salaries are above the established maximum rate.  
(Code 1995, §270.053)~~

**Sec. 28-70. 108. Hiring or starting salary Entrance at minimum.**

Each county employee, except those employees with trainee/work against status, shall be paid appointed to at least the minimum salary of the range which has been established for the classification of the position.  
(Code 1995, §270.054)

**Sec. 28-71. 109. Salary of trainee/work against.**

If an applicant for county employment does not meet the minimum requirements for the position, but is deemed to be the most suitable applicant, the department head may appoint the applicant as a "trainee" or "work against" as determined by the personnel director and consistent with the provisions of the salary plan. The employee shall retain such status until the personnel department determines that the requisite qualifications of the position are met. Approved leave without pay shall not count as time worked toward meeting the minimum requirements for the position. A trainee shall not attain permanent status until he has met the minimum job qualifications and ~~and~~ education requirements and as such is ~~not~~ not eligible for annual increments until permanent status is attained.  
(Code 1995, §270.055)

**Sec. 28-72. 110. Salary of part-time employees.**

The hourly rate paid to county employees ~~who are working in temporary status~~ who are not permanent full-time employees is calculated by converting the annual salary of the comparable permanent position to an hourly rate by dividing the annual salary by 2,080 work hours.  
(Code 1995, §270.064)

**Sec. 28-73 111. Pay periods.**

- (a) All county employees shall be paid bi-weekly (every ~~with~~ two weeks) with two weeks in arrears. ~~for a total of 26 pay days in a calendar year.~~
- (b) All hourly paid employees shall be paid on the last working day of each month for service through the end of the previous month.
- (c) The scheduled payroll is every other Friday; if the scheduled payday is a holiday, employees will be paid the last working day prior to the said holiday. If the payday falls on a ~~Saturday, Sunday or~~ holiday, employees shall be paid on or before the last working day prior thereto.  
(Code 1995, §270.065)

**Sec. 28-74 112. Salary a Adjustments.**

The personnel director shall be responsible for implementing all salary adjustments for county employees. Employees shall be advised of all salary changes. Salary adjustments may occur as a result of the following:

- (1) *Cost-of-living increase.* The board of commissioners has the authority to grant all employees a cost-of-living increase each fiscal year.
- (2) *Annual increment.* An annual increment may be funded in the annual budget and, if awarded, based on the annual performance review. This section also applies to employees of the sheriff and register of deeds. Annual increments are effective on the first day of the month following the anniversary date. All documentation must be received before the payroll deadline date of the month in which the annual increment is due. When an employee's annual salary is at or near the maximum of the pay grade, the employee shall receive the portion of the annual increment that exceeds the maximum pay of the pay grade as a one-time lump sum payment.
- (3) *Below standard rating.* An employee whose performance is rated below standard shall receive a 5% (five percent) decrease in salary until such time as the performance is rated standard or above. ~~The decrease in salary is effective on the first day of the month following the date of receipt of the below standard rating. All documentation must be received before the payroll deadline date of the pay period in which the decrease is assessed.~~ In order to allow time for any grievance that may be filed and the process to take place, the normal payroll deadline process in place may be waived.
- (4) *Demotion.* An employee shall receive a decrease in salary due to a demotion, either voluntary or involuntary, to a lower salary grade as determined by the department head subject to review and approval by the personnel director and the county manager.



(5) *Promotion.* The salary of an employee promoted to a vacant position shall be adjusted within the range, provided the employee meets minimum requirements of the position.

(6) *Negotiated increases.* Other salary increases may be granted from time to time with the approval of the county manager. The county manager may increase the annual salary of an employee when the employee's position is known to be one that is hard to fill or the market rate exceeds the current rate of pay. The salary increase may not exceed the maximum of the salary range.

(7) *Reclassification.* When a position is reclassified to a higher grade, the county manager has the discretion to adjust the salary upward, provided that the adjusted salary does not exceed the maximum of the new salary range, or to leave the salary unchanged except when the salary is below the minimum in which case the salary shall be brought up to the minimum of the new classification. When a position is reclassified to a lower class, the county manager has the discretion to reduce the salary to any salary within the range for the new grade or leave the salary unchanged.

(8) *Trainee/work against to full class.* When a trainee/work against meets the minimum requirements for the position (full class), the salary shall be adjusted upward to the minimum of the position's salary range unless otherwise negotiated at the time of hire. Approved leave without pay shall not count as time worked toward meeting the minimum requirements for the position.

(9) *Transfer.* The salary of an employee transferred to a vacant position may be adjusted within the range as negotiated between employer and employee.

(10) *Effective date.* Salary adjustments shall generally be effective on the date of the actual change. Annual increment increases will be effective the first day of the month after the anniversary month.

(Code 1995, §270.066; Ord. No. 2002-05, §270.066, 7-8-2002)

**Sec. 28-75113. Salary at separation.**

The final ~~scheduled~~ regular payroll check for a county employee will be paid two (2) weeks in arrears. The final payment received by the employee will include annual leave, floating holiday time, ~~pay advance~~ and overtime amounts due, ~~less any pay previously advanced~~, and will be paid in the payroll which occurs two weeks following the final regular payroll. An employee who separates employment with the county will receive a reduction in final pay if there is a negative balance in sick leave, floating holiday time or annual leave.

(Code 1995, §270.067)

**Sec. 28-76114. Mandatory ~~d~~Deductions from salary.**

Deductions which are required by law shall be deducted from employees' pay and shall include the following:

(1) Federal income tax.

(2) State income tax.

~~(B) Se income tax.~~

(3) Social security.

(4) ~~State~~ Local Government Employees' Retirement System, or Law Enforcement Officers' Benefit and Retirement Fund.

Other deductions which may be taken include United Way contributions, pay advance repayment, optional retirement plan contributions, and insurance benefit payments and other voluntary deductions approved by the County.

(Code 1995, §270.068)

**Sec. 28-115. Overtime policy.**

The county abides by all applicable sections of the Fair Labor Standards Act, as amended. and the 1976 FLSA amendments. The county will properly record all applicable overtime accrued for each covered employee. Further details are provided in Secs. 28.156—28.161 of this chapter and through the personnel department.

**Sec. 28-159 116. Leave without pay.**

(a) The decision to grant leave without pay is solely in the discretion of the department head. Factors to be considered are necessity, duration of leave, workload, and other factors in the best interest of the county. Leave without pay may be granted to employees who have exhausted other forms of leave and do not qualify

for leave under the Family and Medical Leave Act of 1993. ~~or to employees for reasons not covered by the Family and Medical Leave Act~~

(b) *Leave without pay procedures.*

(1) The request for leave without pay must be made in writing in a timely fashion prior to the anticipated date.

(2) Accumulated annual leave must be exhausted before leave without pay may be granted.

(3) Accumulated sick leave must be exhausted before leave without pay may be granted in cases of illness where disability is not a factor.

(4) No floating holidays, annual or sick leave shall be earned during a period of leave without pay.

(5) An employee on leave without pay status shall be eligible for any ~~any~~ continuation of allowable benefits ~~by continuing to pay the employee's share of the cost and the employer's share if applicable.~~ by continuing to pay the employee's share of the cost and the employer's share if applicable and by making all employee and employer costs for such benefits as they become due.

(6) When circumstances arise or when conditions exist which cause a need to fill a position left vacant due to leave without pay, the employee in leave without pay status shall be notified of the need to fill the position and given an opportunity to return to the position within one (1) week of such ~~receipt of~~ notice. If the employee on leave without pay status does not return within that week ~~the specified time~~, the position shall become vacant.

(7) Failure on the part of the employee to report promptly at the expiration of the leave without pay, except for reasons submitted in advance to and approved by the department head, shall be ~~cause for dismissal~~ considered a voluntary resignation.

('77 Code, § 16-138)

**Sec. 28-167 117. Merit awards.**

(A) Merit award funds shall be designated by the board of commissioners and shall be allocated to all departments in a manner described by the county manager. Only employees in permanent, budgeted positions working a minimum of 20 hours per week are eligible to receive merit awards.

(b) Eligible employees may be granted lump sum merit awards for meritorious performance. Merit awards may be granted to employees whose salary falls anywhere within the assigned salary range under the following conditions:

(1) Lump sum merit awards may be given at any time during the fiscal year and should follow incidents or periods of exceptional or outstanding job performance.

(2) Lump sum merit awards may be granted in any monetary increment provided that the total amount does not exceed seven percent of the employee's salary in any one fiscal year.

(c) Merit awards shall be initiated at the departmental level upon recommendation of the department head. Such recommendations shall be accompanied by an explicit written justification setting forth the specific meritorious performance rewarded.

(Code 1995, § 270.144)

~~under the following conditions:~~

~~(1) Lump sum merit awards may be given at any time during the fiscal year and should follow incidents or periods of exceptional or outstanding job performance.~~

~~(2) Lump sum merit awards may be granted in any monetary increment provided that the total amount does not exceed 7% of the employee's salary in any one fiscal year. (B) Merit awards shall be initiated at the departmental level upon recommendation of the department head. Such recommendations shall be accompanied by an explicit written justification setting forth the specific meritorious performance rewarded.~~

~~('77 Code, § 16-144) (Ord. passed 11-7-77; Am. Ord. passed 12-7-81; Am. Ord. passed 5-30-84; Am. Ord. passed 6-15-87; Am. Ord. passed 6-5-89; Am. Ord. passed 8-21-89; Am. Ord. passed 4-6-92)~~

**Sec. 28-77 118. Advance on wages.**

There shall be no advance on wages.

(Code 1995, §270.072)



~~Secs. 28-78 119--28.405 145.~~ Reserved.

**ARTICLE IV ~~V.~~ EMPLOYMENT  
COMPENSATION, AND EMPLOYEE PERFORMANCE**

**Sec. 28-406 146. Applicability.**

This article shall be applicable to all employees, except the requirements for the employees ~~those~~ specifically exempted in Section 28-5-6.  
(Code 1995, §270.088)

**Sec. 28-147. Statement of equal employment opportunity.**

It is the policy of Catawba County to maintain a systematic, consistent recruitment program, to promote equal employment opportunities, and to identify and attract the most qualified applicants for employment with the county. This policy is achieved by announcing all position vacancies, and by evaluating all applicants using the same criteria. Personnel decisions are made without regard to race, color, religion, sex, national origin, political affiliation, nondisqualifying disability, or age.

**Sec. 28-407-148. Recruitment requirements.**

- (a) The personnel director shall be responsible for publicizing opportunities and recruiting qualified personnel for all vacant positions authorized by the operating budget of the departments in the county government, including departments of human resources, ~~except where the board of commissioners, upon the recommendation of the manager, freezes a vacant position.~~ government, including departments of human resources, ~~except where~~ The personnel director may also recruit qualified personnel as requested by and for the offices of sheriff and register of deeds. The personnel department shall be responsible for maintenance of permanent records of all position vacancy announcements, including posting and closing dates, all optional referral sources used in the recruitment process, and the pool of applicants considered for each vacancy. The applicant pool data for each position shall include EEO-4 forms, and interview information.
- (b) Each department head shall be responsible for advising the personnel director of anticipated or current vacancies in authorized budgeted positions for the department.

(c) External advertisement. Vacant positions to be filled will be publicized by the county through the local employment security commission office, ~~designated~~ county departments and ~~and~~ the personnel department and through other methods ~~as~~ as determined appropriate for the position in order to permit an open opportunity for all interested employees and applicants to apply.

(d) Internal advertisement. The personnel director may determine that a specific vacancy has qualified internal candidates, and the vacancy vacancies shall be advertised internally for a period of at least five days ~~of at least five days~~ and shall be posted throughout the county government organization. ~~in an area in the department known to employees.~~ If a suitable candidate is not found within the organization, then the position will be advertised externally.

(e) Applicants will be considered on the basis of their qualifications and suitability for the position, including, but not limited to, fitness for duty, relative ability, knowledge and skills; educational background; and any special licenses or certifications which may be required. All applicants considered for employment or promotion shall meet the qualification standards established by the class specifications relating to the position to which appointment is being considered.

All applications must be made through the personnel department.

All candidates for employment must hold at least a high school diploma or GED.

(f) Employment preference shall be given to veterans, widows of veterans, and spouses ~~wives~~ of disabled veterans. Eligible persons are citizens who served the state or the United States honorably in any of the armed services.

(g) Departments shall develop, use, and document, on a consistent basis, a selection process approved by the personnel director that best suits the county's needs in filling positions within each agency or department, and which explains the reason for selection decisions. All selection methods developed and utilized by the department head shall be based on job requirements. The selection of applicants will be based upon a relative consideration of their qualifications for the position to be filled. Advantage will be given to applicants determined to be best qualified. Department heads must reasonably document hiring decisions to verify the basis of the selection.

(h) Consideration shall be given to "trainee" appointments when there is an absence of qualified applicants from which to make a selection. In this instance, if the deficiencies may be eliminated through orientation and on-the-job training, the employee is designated as a trainee. When qualified applicants are unavailable and there is no trainee provision for the vacant classification, an appointment may be made below the level of the regular classification in a "work-against" appointment, allowing the appointee an opportunity to gain the qualifications needed for full class through on the job experience. The appointee must meet the minimum education and experience standard of the class to which the appointee was initially appointed. A work-against appointment may not be made when applicants are available who meet the education, experience and other conditions of employment requirements for the full class of the position in question.

(h) (i) The applicant deemed most qualified will be notified of the selection and a conditional offer of employment as established in Sec. 28-153 will be issued by the department head. The documentation of offer and acceptance shall be forwarded to the personnel department where it shall be placed in the official personnel file.

(the following is included in Sec. 28-153)

~~(i) In order to protect citizens of the county and their properties, the procedures in this subsection are established to provide for fingerprinting and criminal history record checks on applicants for all positions in county government. Subject to subsection (i) (3) of this section, employment with the county government shall be denied for those persons convicted of any crime against a person or crimes against property where intent is an element or any drug or gambling offense.~~

~~(1) The personnel director shall conduct an investigation of any final candidate for a county government position, and it shall be a precondition of employment that an applicant for a position shall, upon request, provide finger prints and all other necessary personal identification, including birth certificate, social security number and drivers license, if available, so that the sheriff may cause a thorough search to be made of local and state criminal records to determine if the applicant has a history of criminal convictions. the crimes enumerated above by use of the Police Information Network (PIN).~~

~~(2) The sheriff shall provide the findings made by the use of the PIN to the personnel director, provided that all necessary agreements with the state bureau of investigation have been executed.~~

~~(3) An evaluation of any crime for purposes of employment will take into account the nature and the circumstances of the offense and the timeframe of the offense as they relate to the essential job functions for the position applied.~~

~~(4) No action to deny employment will be taken until the sheriff confirms the identity of the applicant by a match of the applicant's fingerprints to the state bureau \_\_\_\_\_ of investigation and a certified true copy of the public record document is retrieved.~~

(Code 1995, 270.089)

#### **Sec. 28-408149. Eligibility for employment.**

(a) *Constitutional guarantees.* No county employee shall be required to belong to any particular political party as a condition of employment; nor shall race, age, sex, color, religion, creed, non-disqualifying disability or national origin be used as a qualifying standard for employment.

(b) *Citizenship and alien registration.* All county employees shall be citizens of the United States, or legally eligible for employment in the United States. ~~Or shall submit appropriate documentation of alien employment eligibility pursuant to Title VIII, U.S.C. 1324 et seq.~~

(c) *Employment of relatives* or persons involved in close, personal relationships. The employment of ~~close~~ relatives within ~~the service of the county within~~ the same department or unit/section of a department at the same time is to be avoided unless significant recruitment difficulties exist. If there are fewer than three other eligible applicants for a vacancy and it is necessary for relatives to be considered for employment, or if two individuals are already employed and marry, the following will apply:

(1) Two (2) members of an immediate family or where two (2) persons are living together as spouses, or where there is a close relationship, shall not be employed within the same department or unit/section of a

department if such employment will result in one supervising the other, ~~a member of his immediate family, or where one member occupies a position which has influence over the other's employment, promotion, salary administration and other related management or personnel considerations.~~ Exceptions shall be made where the nature of the position requires a marital couple.

~~RESIDENCY. Department heads are required to reside within the Catawba County limits. An applicant for a department head position will be required to reside within the County limits as a condition of employment subject to the conditions being negotiated with the county manager at the time of hire. An employee promoted to a department head position will be required to move into the county limits in the event the department head sells his or her residence or otherwise changes his or her residence.~~

(2) It is not the intent or purpose of subsection (c) of this section to limit the promotional opportunities of any employee who is closely related to another, but to prevent persons with close personal relationships from having a supervisory relationship, influence over the employment considerations, or authority over the other.

(3) However, for a transfer, promotion, demotion, or other personnel transactions wherein a conflicting situation is created, it is incumbent upon the department head, in consultation with the personnel director, to rectify such a situation within thirty (30 days), preferably through transfer. This 30-day limitation may be waived by the county manager provided the department head demonstrates good cause in the request for such a waiver.

(4) Termination of an employee under these conditions should be avoided if at all possible. Exceptions shall be made where the nature of the position requires a marital couple.

~~Exceptions shall be made where the nature of the position requires a marital couple.~~

(d) ~~(D) Sheriff and register of deeds. As referenced in G.S. 153A-103, t~~The board of commissioners must approve the appointment of a relative of the sheriff or register of deeds who is related by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of moral turpitude. Approval of the board of commissioners is not required for the reappointment or continued appointment of a near relative of a sheriff or a register of deeds who was not related to the appointing officer at the time of initial appointment.

(e) ~~(E) Minimum age.~~ The minimum employment age is eighteen (18) years of age. Law enforcement officers must be at least twenty-one (21) years of age.

(f) Residency. Department heads are required to reside within the Catawba County limits. An applicant for a department head position, or an employee promoted to a department head position, will be required to move into the county limits within a reasonable period of time.

(Code 1995, §270.090)

#### **Sec. 28-111~~150~~. Appointment of department directors and heads.**

The county manager shall make all appointments of department directors or heads under his direction, except those elected or appointed by the board of commissioners or other boards.

(Code 1995, §270.096)

#### **Sec. 28-151. Transfers.**

If a vacancy occurs and an employee wishes to be considered for transfer to the vacant position, a written request and application must be forwarded to the Personnel department during the recruitment period for the position. All normal conditions of recruitment shall apply.

A condition of a transfer from one department to another may include a new probationary period of up to six months. If the employee is on probation from the initial hire date, and transferring from one department to another, the probationary period may be extended.

**Sec. 28-152. Flexible Promotions.** The county wants to create every opportunity to make promotional opportunities available to current employees. However, the county recognizes there may be situations where the employee or the county may decide the promotion was not in the best interest of the employee. All requirements of recruitment and State Personnel will apply, including the grievance procedure.

Therefore, the flexible promotions policy will allow the following:

- a. Flexible promotions/lead worker assignments will include a six-month evaluation time to allow both the employee and the department head to determine the assignment is in the best interest of the employee;
- b. Flexible promotions and assignments require the classification plan to be flexible as well. Personnel will, with approval of the county manager, reclassify the position the employee holds to the new assignment. If the promotion/assignment is determined not to be in the best interest of the employee, the classification will be changed to the former classification.
- c. When an employee is assigned to a flexible promotion/lead worker assignment, another person may be assigned to perform the work of the employee serving a temporary or flexible assignment. When this assignment is made the employee is not adversely affected if the employee serving in a flexible promotion/lead worker assignment returns to the former classification.
- d. Departments must be able to accommodate these changes within their department when flexible promotions/lead worker assignments are determined not to work in the best interest of the employee.

**Sec. 28-153. Conditional offer of employment.**

In order to protect citizens of the county and their properties, the procedures in this subsection are established on applicants for all positions in county government.

- (1) The personnel director shall conduct an investigation of any final candidate for a county government position, and it shall be a precondition of employment that an applicant for a position shall, upon request, provide finger prints and all other necessary personal identification, including birth certificate, social security number and drivers license, if available, so that the sheriff may cause a thorough search to be made of local and state criminal records to determine if the applicant has a history of criminal convictions.
- (2) The sheriff shall provide the findings made by the use of the PIN to the personnel director, provided that all necessary agreements with the state bureau of investigation have been executed.
- (3) An evaluation of any crime for purposes of employment will take into account the nature and the circumstances of the offense and the timeframe of the offense as they relate to the essential job functions for the position applied.
- (4) No action to deny employment will be taken until the sheriff confirms the identity of the applicant by a match of the applicant's fingerprints to the state bureau of investigation and a certified true copy of the public record document is retrieved.
- (5) Employment with the county may require that additional tests or investigation be conducted, after making a conditional offer of employment, but before making a final offer of employment. Such additional tests or investigations are determined by the position being filled, and may include, but are not necessarily limited to the following: driving tests, credit checks, finger printing and criminal background checks.

~~(B) In order to protect the citizens of Catawba County and their properties, and the clients served, the Personnel Department may require driving, credit, fingerprinting and criminal history record checks on applicants for positions in Catawba County government. Subject to subparagraph (3) of this section, employment with the Catawba County Government shall be denied for those persons with a record in conflict with public service. Especially new & important~~

- (6) **MEDICAL SCREENING**Once an applicant is extended a conditional offer of employment, the applicant may be required to undergo an examination for physical, mental or emotional fitness for duty. The appropriate test will be based on bona fide occupational qualifications. Unsatisfactory results from such testing will result in the conditional offer of employment being withdrawn.
- (7) **DRUG AND ALCOHOL TESTING**—Applicants for full time, permanent jobs and applicants for part time or temporary positions involving the safety or security of the public or clients, or security or the provision of critical public service, and which applicants who have been extended a conditional offer of employment, by the City will be required to undergo alcohol and/or drug testings prior and a medical screening with results deemed to met the requirements of the position prior to being made a final offer of employment.

- (8) The county reserves the right to consider all results and withdrawn any offer of conditional employment based on the results obtained.

(Code 1995, §270.089)

**Sec. 28-109~~154~~. Employment categories.**

All county employees are hired in one of the following categories:

- (1) *Salaried employees.* Salaried employees are those employees who are entitled to all rights and benefits as set out in this chapter. Such employees are further categorized as follows:

(a) *Full-time employee.* An employee who is employed on a continuous, year-round basis and who is regularly scheduled to work at least forty (40) hours per week.

(b) *Four-fifths time employee.* An employee who is employed on a continuous, year-round basis and who is regularly scheduled to work thirty-two (32) hours per week.

(c) *Half-time employee.* A half-time employee is an employee who is employed on a continuous, year-round basis and who is scheduled to work twenty (20) hours per week.

(d) *Other employee.* An other employee is an employee who is hired to work a different schedule but whose scheduled hours are regularly less than 40 hours per week but more than 20 hours per week and whose scheduled hours do not fall within the recognized categories set forth in subsections (1) (b) and (1)(c) of this section.

- (2) *Part-time employees.* Part time employees are those who serve at the will of the department head and are hired to work on an hourly basis. A part-time employee has only the benefits conferred by federal and state law, except where the county has exclusive jurisdiction.

~~(4) Other (B) Part-time or Hourly An employee whose scheduled hours are regularly less than 40 hours per week but more than 20 hours per week and whose scheduled hours do not fall within the recognized categories set forth in divisions (A)(2) and (3) above.~~

~~(B) Part-time employees are those employees who serve at the will of the department head and are hired to work on an hourly basis. A part-time employee has only the benefits conferred by federal and state law except where the county has exclusive jurisdiction.~~

(Code 1995, §270.091)

**Sec. 28-440. 155. Resignation.**

An employee who ~~desires to~~ terminates employment with the county should submit written notification to the immediate supervisor at least three weeks prior to the intended date of separation. If, in the judgment of the department head, less than three (3) weeks notice will not adversely affect the department then less notice may be given. Department heads, division and program managers are required to provide four (4) weeks notice. The day the notice is submitted is not considered part of the notice period. If unapproved absences occur during the notice period, the notice shall be considered inadequate. If proper ~~three-weeks'~~ notice is not given, the employee waives payment for accrued annual leave. ~~An employee who is absent from work for three consecutive workdays without reporting to the supervisor the reasons for the absence shall be considered to have separated employment without notice and to have waived payment for accrued leave.~~ An employee who resigns to avoid dismissal shall be considered to have resigned for cause and is, therefore, ineligible for payment of accrued vacation.

An employee who is absent from work for three consecutive workdays without reporting to the supervisor the reasons for the absence shall be considered to have separated employment without notice and to have waived payment for accrued leave. An employee terminates employment by failing to report to work without giving written or verbal notice to his immediate supervisor or department head. Such failure shall be deemed a voluntary resignation from employment when the employee is absent without approval for a period of at least three (3) consecutive workdays. Separation shall not occur until the department head has undertaken reasonable efforts to locate the employee.

(Code 1995, §270.092)

**Sec. 28-112. Hours of operation. ~~(deleted)~~**

~~The regular hours of operation of county offices are between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, with a one-hour lunch period, although some facilities may be open longer hours and lunch periods may be less than one hour but no less than one-half hour to accommodate service to the public. When the activities of a particular department require some other schedule to meet work needs, the manager may authorize a deviation from the normal schedule. No county office shall be closed at any time without prior knowledge and approval of the county manager.~~

(Code 1995, §270.097)



**Sec. 28-413156. Fair labor standards.**

(a) It is the policy of the County to comply with all the requirements of the Fair Labor Standards Act (FLSA), 29 U.S.C. section 201 et seq.

(b) As an integral part of job duties and responsibilities, every department head, supervisor or individual in a managing position is required to ensure compliance with the applicable standards, regulations and guidelines of this law. ~~All overtime shall be compensated pursuant to those requirements set out in the Fair Labor Standards Act. All overtime hours remaining on an employee's leave record shall be compensated at the employee's current rate of pay upon separation.~~

(c) All employees are encouraged to discuss with their supervisor any employment practices which may be governed by the Fair Labor Standards Act. All prohibitions against of retaliation and discrimination described specifically set forth in 29 U.S.C. 215 will be strictly adhered to by all agents of the county, including department heads, supervisors and individuals in management. There shall be no retaliation by the county against any employee who asserts a right or claim under the Fair Labor Standards Act. ~~There shall be no retaliation by the county against any employee who asserts a right or claim under the Fair Labor Standards Act.~~

(Code 1995, §270.098

~~(D) Sick leave use. Supervisors may require an employee to use compensatory time in lieu of sick leave.~~

~~(d) Non-Exempt Employees: NONEXEMPT EMPLOYEES. It is County's policy to award compensatory time award compensatory time to non-exempt employees. However, there are some situations where an employee's absence results in calling in other employees to cover the work schedule, so an agreement may exist to pay for overtime. Regardless, all overtime shall be compensated pursuant to those requirements set out in the Fair Labor Standards Act. Compensatory time is allowed off from work in lieu of overtime pay, unless another arrangement is made through the personnel department and with approval by the county manager as noted in subpart (G) of this section.~~

~~All Overtime hours remaining on a non-exempt employee's leave record shall be compensated at the employee's current rate of pay upon separation.~~

~~(1) All employees shall maintain true, complete, and legible time records. All time worked shall be recorded to the nearest one-quarter hour and shall be submitted to the supervisor in a timely fashion. Supervisors shall arrange the work schedule of their employees to accomplish necessary work within an eight (8) hour average workday or forty (40) hour workweek, except in those cases where additional excessive hours of work are necessary. All overtime work shall be pre-approved by the supervisor except in emergency situations where conditions are such that prior approval cannot reasonably be obtained. and in In such event approval shall be obtained as soon as practicable after the overtime work has begun. immediately subsequent to the emergency overtime worked, except when overtime is mandated by shift scheduling.~~

~~(2) Management of compensatory time. Supervisors have the right and obligation to manage compensatory time. Therefore, supervisors are required to monitor time and have the right to require the employee to take time off to manage compensatory time hours.~~

~~(3) FLSA overtime and FLSA straight time. When nonexempt employees are awarded compensatory time in lieu of overtime payments the compensatory time will be given at a rate of time and one-half for hours worked in excess of over forty (40) (FLSA overtime) in a workweek (FLSA overtime), and at a straight time rate time (FLSA straight time) for hours worked up to forty (40) hours in a workweek (FLSA straight time).~~

~~(4) Maximum Accrual: Non-exempt employees may accrue up to a maximum of two-hundred forty (240) hours of compensatory time. All hours earned in excess of 240 shall be paid as overtime. The maximum allowable amount of compensatory hours that can be carried forward from one calendar year to the next is sixty (60) hours. All hours over 60 will be paid at the regular hourly rate. The following categories of employees shall be treated as set forth below: follows:~~

~~(a) Law enforcement personnel. Law enforcement personnel shall be awarded compensatory time at time and one-half when the hours worked in a 14 day work period exceed 86 hours, and at straight time for hours worked in a workday over the regular schedule when total hours are not in excess of 86 hours in the 14 day period. Compensatory time hours may be accrued up to a maximum of 480 hours. All hours earned in excess of 480 hours shall be paid as overtime.~~

(b) Emergency medical personnel. Emergency medical personnel working a twelve (12) hour shift shall not be awarded compensatory time for all hours worked in excess of fortyover (40) hours per week but shall be paid overtime at a rate of time and one-half for all hours worked in excess of over 40 in a workweek.

~~(c) Other employees. Employees whose work schedules are other than those set forth above shall be awarded compensatory time consistent with the FLSA.~~

(4) Emergency leave requests made under this section shall be made by the employee and approved by the supervisor within thirty (30) minutes of the beginning of the workday or shift. Time under this section shall be exhausted prior to the approval of annual leave or leave without pay.

(5) Time under this section may be used in lieu of sick leave and floating holidays. An employee who has earned and properly credited compensatory time (FLSA straight time) during a workweek, but who becomes sick, may substitute that compensatory time on a time-for-time basis for sick leave.

(F)(B) Hours worked. Hours worked is the time for which an employee is entitled for compensation under the FLSA. Compensation is required for the time an employee is required to be on duty, on the employer's premises, or at a prescribed workplace, and for the time the employee is suffered or permitted to work, whether or not requested to do so.

(1) Vacation, sick, educational leave hours, holiday leave and any other leave time will not be considered hours worked for FLSA purposes.

(2) If a nonexempt employee is required to work on a county designated holiday, the hours worked on that day will be paid at time and one-half, except for employees who are assigned floating holidays and EMS personnel.

(3) Floating holidays may be granted to employees who must work on the holiday due to the nature of their position and schedule. Floating holidays are not considered hours worked and are compensated at straight time.

(4) Training-related time, either to increase efficiency or as required by the employer, is counted as hours worked for purposes of calculating overtime. Time relating to training and educational seminars that are required by the state as a condition of practice of the profession are not considered work time and are not counted as hours worked for the purpose of calculating overtime.

(5) Time spent by an employee during the regular workday adjusting a grievance under the county grievance policy is considered hours worked for purposes of calculating overtime.

(6) All travel time which is required by the county other than the normal commuting time between home and job is considered hours worked for the purposes of calculating overtime.

(G)(C) Overtime payments. Authorization for payment of overtime when the maximum compensatory time ceiling has not been reached shall be made in writing by the county manager or the manager's designee.

~~(D) Standing authorizations. Employees or classes of employees may be granted standing authorization for overtime payments by written authorization of the county manager or the manager's designee.~~

~~(E) On-call duty. Each department will establish its own method of compensation for on-call time. The policy must be in writing, approved by the Personnel department and the County manager, within the department's budget, and communicated to employees.~~

~~(F) Overtime at separation. All accrued overtime hours shall be compensated at the average regular rate received by the employee during the last three years of employment or at the regular rate of pay upon any employee's separation, whichever is higher, consistent with regular payroll practices.~~

~~(G) Employees shall not volunteer to work over-time without receiving compensation. All overtime work shall be pre-approved by the supervisor except in emergency situations where conditions are such that prior approval cannot be obtained, and in such event approval shall be obtained immediately sub-sequent to the emergency overtime worked.~~

(Code 1995, §270.098)

**Sec. 28-157. ~~§(B)~~ Compensatory time for FLSA exempt employees.**

~~Compensatory time is earned or accrued by an employee for time worked in excess of a workweek as established by this chapter that does not result~~ Employees exempt from the FLSA provisions. Exempt employees under the FLSA shall be compensated for compensatory time earned as specified below:

(A) Compensatory time shall be accrued on an hour-for-hour basis.

(B) Compensatory time shall be taken by an employee at the convenience of the department, and in the sole discretion of the supervisor, at a time which will least obstruct the operation of the department. Emergency requests for use of time under this section shall be made by the employee within thirty (30) minutes of the beginning of the workday or shift. Supervisors are encouraged to approve the use of compensatory time within three months after it is earned if at all possible.

(C) Compensatory time may not be transferred to any other type of leave.

(D) An employee may substitute compensatory time on a time-for-time basis for sick or annual leave.

(E) Compensatory time is lost when an employee is separated from county service. The employee's separation date may not be moved forward in order to pay for compensatory time.

(F) In exceptional circumstances the county manager may authorize payment of compensatory time.

(Code 1995, §270.098)

**Sec. 28-114~~158~~. Workweek.**

~~Salaries employees shall receive a salary commensurate with the employee's grade for all hours worked for the county in a given year. All employees whose overtime is governed by the Fair Labor Standards Act (FLSA) shall accrue overtime compensation in accordance with the provisions of the FLSA. The standard workweek shall be from 12:01 a.m. on Saturday through 12:00 midnight on Friday, unless an alternate schedule has been so designated by the personnel director. Department directors, supervisors and otherwise exempt employees under the FLSA shall work those hours necessary to ensure satisfactory performance of their departments, but not less than 40 hours per week. Law enforcement personnel shall not exceed 171 hours within a 28-day work period in accordance with the law enforcement exemption set forth in the FLSA.~~

(Code 1995, §270.099)

**Sec. 28-159. Work schedule.** Employees are expected to work during all assigned periods exclusive of mealtimes.

**Sec. 28-160. Work schedule recordkeeping.** All employees are required to report a true and accurate record of hours worked.

**Sec. 28-161. Overtime.** ~~Except in cases of emergency, employees are not to perform work at any time they are not scheduled to work, unless they receive prior approval from their immediate supervisor. , except in cases of emergency~~ An emergency exists if a condition arises that could reasonably result in damage or harm to persons or property, that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the overtime worked as soon as practical following the completion of work.

**Sec. 28-115. Overtime for certain nonexempt employees. (included in 28-155)**

~~(a) Records and scheduling. All employees governed by the FLSA shall maintain true, complete, and legible time records. All time worked shall be recorded to the nearest one-quarter hour and shall be submitted to the supervisor in a timely fashion. Supervisors shall arrange the work schedule of their employees to accomplish necessary work within an average workday or workweek, except in those cases where excessive hours of work are necessary. All overtime work shall be preapproved by the supervisor except in emergency situations where conditions are such that prior approval cannot be obtained, and in such event approval shall be obtained immediately subsequent to the emergency overtime worked, except when overtime is mandated by shift scheduling.~~

~~(b) FLSA overtime and FLSA straight time. Employees shall be awarded compensatory time in lieu of overtime payments at a rate of time and one-half for hours worked over 40 (FLSA overtime) in a workweek and at time for time (FLSA straight time) for hours worked over eight in a work day when not in excess of 40 hours in the same work-week. Compensatory time hours may be accrued up to a maximum of 240 hours. All hours earned in excess of 240 shall be paid as overtime. The maximum allowable amount of compensatory hours that can be carried forward from one calendar year to the next is 60 hours. All hours over 60 will be paid at the regular hourly rate. The following categories of employees shall be treated as follows:~~

~~(1) Law enforcement personnel. Law enforcement personnel shall be awarded compensatory time at time and one-half when the hours worked in a 28-day work period exceed 171 hours, and at straight time for hours worked in a workday over the regular schedule when total hours are not in excess of 171 hours~~



~~in the 28-day period. Compensatory time hours may be accrued up to a maximum of 480 hours. All hours earned in excess of 480 hours shall be paid as overtime.~~

~~(2) Emergency medical personnel. Emergency medical personnel shall not be awarded compensatory time for all hours worked over 40 hours per week but shall be paid overtime at a rate of time and one-half for all hours worked over 40 in a workweek.~~

~~(3) Other employees. Employees whose work schedules are other than those set forth in subsection (b) of this section shall be awarded compensatory time consistent with the FLSA.~~

~~(4) Emergency leave requests. Emergency leave requests made under subsection (b) of this section shall be made by the employee and approved by the supervisor within 30 minutes of the beginning of the workday or shift. Time under subsection (b) shall be exhausted prior to the approval of annual leave or leave without pay.~~

~~(5) Time used. Time under subsection (b) of this section may be used in lieu of sick leave and floating holidays. An employee who has earned and properly credited compensatory time (FLSA straight time) during a workweek, but who becomes sick, may substitute that compensatory time on a time-for-time basis for sick leave.~~

~~(c) Hours worked. Hours worked is the time for which an employee is entitled for compensation under the FLSA. Compensation is required for the time an employee is required to be on duty, on the employer's premises, or at a prescribed workplace, and for the time the employee is suffered or permitted to work, whether or not requested to do so.~~

~~(1) ——— Vacation, sick, and holiday leave will not be considered hours worked for FLSA purposes.~~

~~(2) ——— If a nonexempt employee is required to work on a county designated holiday, the hours worked on that day will be paid at time and one-half, except for employees who are assigned floating holidays and EMS personnel.~~

~~(3) ——— Floating holidays may be granted to employees who must work on the holiday due to the nature of their position and schedule. Floating holidays are not considered hours worked and are compensated at straight time.~~

~~(4) ——— Training-related time, either to increase efficiency or as required by the employer, is counted as hours worked for purposes of calculating overtime. Time relating to training and educational seminars that are required by the state as a condition of practice of the profession are not considered work time and are not counted as hours worked for the purpose of calculating overtime.~~

~~(5) ——— Time spent by an employee during the regular workday adjusting a grievance under the county grievance policy is considered hours worked for purposes of calculating overtime.~~

~~(6) ——— All travel time which is required by the county other than the normal commuting time between home and job is considered hours worked for the purposes of calculating overtime.~~

~~(d) Overtime payments. Authorization for payment of overtime when the maximum compensatory time ceiling has not been reached shall be made in writing by the county manager.~~

~~(e) Standing authorizations. Employees or classes of employees may be granted standing authorization for overtime payments by written authorization of the county manager.~~

~~(f) On-call duty. Employees required to work on-call duty shall receive overtime for all time actually spent in the service of the department in excess of their regular work schedule. A minimum of two hours shall be guaranteed any employee on call when the employee is required to leave home to conduct duties. If the employee is required to leave home, the recording of time shall begin when the employee leaves home and shall conclude when the employee returns home. Telephone calls while on call shall be counted as time earned for the duration of the call.~~

~~(g) Overtime at separation. All accrued overtime hours shall be compensated at the average regular rate received by the employee during the last three years of employment or at the regular rate of pay upon any employee's separation, whichever is higher, consistent with regular payroll practices.~~

~~(h) Preapproval of overtime. **Employees shall not volunteer to work over-time without receiving compensation.** All overtime work shall be pre-approved by the supervisor except in emergency situations where conditions are such that prior approval cannot be obtained, and in such event approval shall be obtained immediately subsequent to the emergency overtime worked.~~

~~(Code 1995, §270.100)~~

#### **Sec. 28-116 Compensatory time for certain exempt employees. (Moved to Sec. 28-156)**

Compensatory time is earned or accrued by an employee for time worked in excess of a workweek as established by this chapter that does not result from the Fair Labor Standards Act (FLSA) provisions. Exempt employees under the FLSA shall be compensated for compensatory time earned as specified below:

(1) Compensatory time shall be accrued on an hour-for-hour basis.

(2) Compensatory time shall be taken by an employee at the convenience of the department and in the sole discretion of the supervisor at a time which will least obstruct the operation of the department. Emergency requests for use of time under this section shall be made by the employee within 30 minutes of the beginning of the workday or shift. Supervisors are encouraged to approve the use of compensatory time within three months after it is earned if at all possible.

~~(C) Compensatory time may not be transferred to any other type of leave.~~

~~(D) An employee may substitute compensatory time on a time-for-time basis for sick or annual leave.~~

~~(E) Compensatory time is lost when an employee is separated from county service. The employee's separation date may not be moved forward in order to pay for compensatory time.~~

~~(F) In exceptional circumstances the County manager may authorize payment of compensatory time upon written request.~~

~~(Code 1995, §270.101)~~

**Sec. 28-447162. Disciplinary action.**

(a) *Generally.* Department heads and supervisors are responsible for maintaining ~~the~~ the proper conduct and discipline of county employees under their supervision. When an employee's performance or conduct is determined by a supervisor or department head to be unacceptable, disciplinary action may be taken in a number of ways, depending on the nature of the offense.

All written warnings and formal notice to employees of performance or conduct that is unacceptable must be included in the employee's personnel file as maintained by the personnel department.

(b) *Just cause.* Just cause for disciplinary action shall be in accordance with the following:

(1) Any employee, regardless of occupation, position, or profession may be warned, demoted, suspended or dismissed by the appointing authority. Such actions may be taken against employees with permanent status, as defined by section 28-1, only for just cause. The degree and type of action taken shall be based upon the sound and considered judgment of the appointing authority in accordance with this section. When just cause exists, the only disciplinary actions provided for under this section are as follows:

- (a) Written warning;
- (b) Disciplinary suspension without pay;
- (c) Demotion; and
- (d) Dismissal.

(2) There are two bases for the discipline or dismissal ~~or dismissal~~ of employees under the statutory standard of "just cause" as set out in G.S. 126-35. ~~These~~ The two bases are ~~(a) discipline or dismissal imposed on the basis of unsatisfactory job performance, including grossly inefficient job performance; and (b) discipline or dismissal imposed on the basis of unacceptable personal conduct.~~

(a~~e~~) Either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct, as defined in subsections (c), (d) and (e) ~~(B), (C), and (D)~~, (2) of this section, constitutes just cause for discipline or dismissal ~~or dismissal~~. The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

(b~~d~~) The imposition of any disciplinary action shall comply with the procedural requirements contained in subsection (i) of this section. ~~contained in Subpart (H).~~

(c~~B~~) Dismissal for unsatisfactory performance of duties. Procedures for dismissal for unsatisfactory performance of duties are as follows:

(1) Unsatisfactory job performance is work-related performance that fails to satisfactorily meet job requirements as specified in the relevant job description, work plan or as directed by the management of the work unit or department.

(2) The intent of subsection (c) is to assist and promote improved employee performance, rather than to punish. This rule ~~Rule~~ covers all types of performance-related inadequacies. Subsection (c) of this section. ~~This Section~~ does not require that successive disciplinary actions all concern the same type of unsatisfactory performance. Disciplinary actions related to personal conduct may be included in the successive system for performance-related dismissal, provided that the employee receives at least the minimum number of disciplinary actions, regardless of the basis of the disciplinary actions, required for dismissal on the basis of inadequate performance.

Disciplinary actions administered under subsection (c) of this section are intended to bring about a permanent improvement in job performance. Should the required improvement later deteriorate or other inadequacies occur, the supervisor may deal with this new unsatisfactory performance with further disciplinary action.

(3) In order to be dismissed for a current incident of unsatisfactory job performance, an

employee must first receive ~~at least two~~ at least two prior disciplinary actions: first, one or more written warning; followed by a warning or other disciplinary action ~~;~~ which notifies the employee that failure to make the required performance improvements may result in dismissal.

(4) Prior to the decision to dismiss an employee, the department director must conduct a predissmissal conference with the employee in accordance with the procedural requirements of subsection (i) of this section.

(5) An employee who is dismissed must receive written notice of the specific reasons for the dismissal as well as notice of any applicable appeal rights.

(6) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

(dC) *Dismissal for grossly inefficient job performance.* Procedures for dismissal for grossly inefficient job performance are as follows:

(1) ~~Gross inefficiency~~ (Gross inefficiency (grossly inefficient job performance)) occurs in instances in which when the employee fails to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by the management of the work unit or department and that failure results in the following:

- a. The creation of the potential for death or ~~serious harm~~ ~~injury~~ ~~harm~~ or damage to a client, an employee, members of the public or to a person over whom the employee has responsibility; or
- b. The loss of or damage to department property or funds that could result in a serious impact on the department and/or work unit.

(2) Dismissal on the basis of grossly inefficient job performance is administered in the same manner as for unacceptable personal conduct. Employees may be dismissed on the basis of a current incident of grossly inefficient job performance without any prior disciplinary action.

(3) Prior to dismissal of an employee with permanent status on the basis of grossly inefficient job performance, there shall be a predissmissal conference between the employee and the department director or designee. This conference shall be held in accordance with the provisions of subsection (l) of this section pertaining to p;

Procedural requirements.

(4) Dismissals for grossly inefficient job performance require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.

(5) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

(eD) *Dismissal for personal conduct.* Procedures for dismissal for personal conduct are as follows:

(1) Employees may be dismissed without prior discipline for a current incident of unacceptable personal conduct.

(2) Unacceptable Personal Conduct includes is:

- (a) Conduct for which no reasonable person should expect to receive prior warning; ~~or~~
- (b) Job related conduct which constitutes a violation of state or federal law; ~~or~~
- (cC) Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the department or the county; ~~or~~
- (d) The willful violation of known or written ~~written~~ work rules; ~~or~~
- (e) Conduct unbecoming an employee that is detrimental to the department's service; ~~or~~
- (f) The abuse of client, patient, student or a person over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the department; or
- (g) falsification of an employment application or other employment documentation; ~~or~~
- (h) Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning; or

~~Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning; or~~

(i) Absence from work after all authorized leave credits and benefits have been exhausted.

- (3) Prior to dismissal of an employee with permanent status on the basis of unacceptable personal conduct, there shall be a pre-dismissal conference between the employee and the department director. This conference shall be held in accordance with subsection (i) of this section.
- (4) Dismissals for unacceptable personal conduct require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.
- (5) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

(fE) *Written warning.* Written warnings shall be given in accordance with the following:

(1) The supervisor shall monitor and promote the satisfactory performance of work assignments and acceptable standards of personal conduct. All types of performance-related job inadequacies may constitute unsatisfactory job performance under this section. Unacceptable personal conduct may be work-related or non-work-related conduct and may be intentional or unintentional. When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee ~~must~~ receives. The supervisor may elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. ~~The~~ written warning must:

- a. Inform the employee that this is a written warning, and not some other nondisciplinary process such as counseling. ~~such as counseling;~~
- b. Inform the employee of the specific issues that are the basis for the warning;
- c. ~~Tell~~ Tell the employee what specific improvements, if applicable, must be made to address these specific issues;
- d. ~~Inform~~ Tell the employee the time frame allowed for making the required improvements/corrections. Absent a specified time frame, sixty (60) days is the time frame allowed for correcting unsatisfactory job performance. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct.
- e. ~~Tell~~ Tell the employee the consequences of failing to timely make the required improvements/corrections.

- (2) A written warning must be issued in accordance with the procedural requirements contained in subsection (i) of this Section.

(gF) *Disciplinary suspension without pay* An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action or for causes relating to any form of unacceptable personal conduct or grossly inefficient job performance. The length of a disciplinary suspension without pay for an employee must be for at least one (1) full work week, but not more than two (2) full work weeks. Prior to placing any employee on disciplinary suspension without pay the department director or designee shall conduct a presuspension conference with the employee in accordance with the procedural requirements of this Section contained in subsection (i) of this section. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights.

(hG) *Demotion, involuntary.* ~~The department head has the discretion, in rare and unusual circumstances,~~ The department head has the discretion to retain an employee in a lesser capacity when the employee's performance or conduct is sufficient to satisfy grounds for dismissal, but the employee shows promise of acceptable performance or conduct in a lesser position. The department head shall reduce the salary of the employee accordingly.

- (1) Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct as follows:
- a.2 *Unsatisfactory job performance.* An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.

b.3 *Grossly inefficient job performance.* An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.

c4. *Personal Conduct.* An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.

(25) An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of any applicable appeal rights.

(36) An employee shall receive a decrease in salary due to a demotion to a lower salary grade as determined by the department head, subject to review and approval by the personnel director and the county manager. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade.

(47) Prior to the decision to demote an employee for disciplinary reasons, the department director or designee must conduct a predemotion conference with the employee in accordance with the procedural requirements contained in subsection (i) of this section.

(i) *Procedural requirements.* Department heads ~~Directors~~ shall consult with the personnel director regarding matters where suspension without pay, demotion or dismissal are considered. The following procedural requirements must be followed when taking ~~to issue~~ disciplinary action under this section:

(1) *Written warning.* ~~To issue a written warning to an employee, a supervisor must issue the employee a~~ written notice clearly stating it is a written warning detailing the specific issues, the expectation going forward, establishing time frames if applicable, and other matters referenced in subsection (f) of this section including right of appeal and a copy of the grievance procedure. ~~detailing the matters referenced in Subpart (E)~~

(2) *Disciplinary suspension without pay.* To place an employee on disciplinary suspension without pay, the department head ~~director~~ must comply with the following procedural requirements:

- a. In matters of unsatisfactory job performance, ensure that the employee has received at least one prior disciplinary action. In matters of grossly inefficient job performance or unacceptable personal conduct, no prior disciplinary actions are required, so an employee may be suspended without pay for a current incident of grossly inefficient job performance or unacceptable personal conduct;
- b. Furnish the employee a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension.; as well as the employee's appeal rights and a copy of the grievance procedure;

~~Advise the employee of any applicable appeal rights in the document affecting the suspension. A department shall~~ Advise the employee for of any applicable appeal rights in the document affecting the suspension. A department shall furnish to an employee, as an attachment to the written documentation of a grievous disciplinary action, a copy of the county grievance procedure. An employee with permanent status who has been placed on disciplinary suspension shall have seven (7) ~~fifteen (15)~~ calendar days from the date of his receipt of written notice of such action to file an appeal with the county grievance procedure contained in section 28-123.

(3) *Demotion.* To demote an employee the department director must comply with the following procedural requirements:

- a. In matters of unsatisfactory job performance, ensure that the employee has received at least one (1) prior disciplinary action;
- b. In matters of grossly inefficient job performance or unacceptable personal conduct, there is no requirement for previous disciplinary action, so an employee may be demoted for a current incident of grossly inefficient job performance or unacceptable personal conduct without any prior disciplinary action-; ~~without any prior disciplinary action;~~
- c. Give advance oral or written notice of the appropriate pre-disciplinary



conference to the employee of the time, location, and the issue for which discipline has been recommended.

The amount of advance notice shall be as much as is practical under the circumstances.

- d. Give ~~an~~ employee ~~who is demoted~~ written notice of the specific acts or omissions that are the reasons for the demotion;
- e. Advise ~~the~~ employee of how and to what extent the demotion will affect the employee's salary ~~rate~~ or pay grade; and
- f. Advise ~~the~~ employee of any applicable appeal rights in the document affecting the demotion. A department shall furnish ~~to an~~ to an employee, as an attachment to the written documentation of a grievous disciplinary action, ~~as an attachment to the written documentation of a grievable disciplinary action,~~ a copy of the county grievance procedure. An employee with permanent status who has been demoted shall have ~~fifteen (15)~~ seven (7) calendar days from the date of his receipt of written notice of such action to file an appeal with the county grievance procedure contained in section 28-123.

(4) *Dismissal.* Before an employee may be dismissed, a department must comply with the following procedural requirements:

- a. The supervisor recommending dismissal shall discuss the recommendation with the department head director or designee who shall conduct a predissmissal conference with the employee. The person conducting the pre-dismissal conference must have the authority to decide what, if any, disciplinary action shall be imposed on the employee.
- b. The supervisor or designated management representative shall schedule a predissmissal conference with the employee.
- c. Advance written notice of the predissmissal conference must be given to the employee of the time, location, and the issues for which dismissal has been recommended. The amount of advance notice shall be as much as is practical under the circumstances.
- d. The department director director or designee shall conduct ~~a~~ the predissmissal conference with ~~the~~ the employee, limiting attendance to the employee and the person conducting the conference; a second management representative may be present at management's discretion. A representative from the personnel department shall be present to act as an unbiased consultant. —The purpose of the predissmissal conference is to review the recommendation for dismissal with the affected employee and to listen to and ~~to~~ consider any information presented ~~put forth~~ by the employee, in order to ensure that a dismissal decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for security exists. No attorneys representing either side may attend the conference.
- e. In ~~in~~ the conference, management shall give the employee oral or written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal action and to offer information or arguments in support of the employee's position. Every effort shall be made by management to ensure that the employee has a full opportunity during the conference to set forth any available information in opposition to the recommendation to dismiss prior to the end of the conference. ~~prior to the end of the conference.~~ This opportunity does not include the option to present witnesses.
- f. Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should not be communicated to the employee in accordance with this subsection (l)(4)f prior to the beginning of the next business day following the conclusion of the predissmissal conference or ~~after or after~~ the end of the second business day following the completion of the predissmissal conference.

g. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. A department shall furnish to an employee, ~~as an attachment to the written documentation of a grievable disciplinary action,~~ as an attachment to the written documentation, a copy of the county grievance procedure. An employee with permanent status who has been dismissed shall have seven (7) ~~fifteen (15)~~ calendar days from the date of his receipt of written notice of such action to file an appeal with the county grievance procedure contained in section 28-170.

h.h The effective date of a dismissal for unsatisfactory job performance shall be determined by management. The effective date of the dismissal shall not be earlier than the letter of dismissal nor more than fourteen (14) calendar days after the notice of dismissal.

(j) *Time limits for active warnings/disciplinary actions for progressive discipline.* Any disciplinary action is deemed inactive for the purpose of this section if:

- (1) ~~The~~ manager or supervisor notes in the employee's personnel file that the reason for the disciplinary action has been resolved or corrected; or
- (2) Eighteen months have passed since the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last 1848 months and the department has not, prior to the expiration of the 18-month period, issued to the employee written notice, including reasons, of the extension of the period.

(k) ~~(j)~~ *Placement on investigation for employees subject to state personnel act.*

Investigation status is used to temporarily remove an employee from work status. Placement on investigation with pay does not constitute a disciplinary action as defined in this section and is not appealable. Management must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled work day after the beginning of the placement. An investigatory placement with pay may last no longer than thirty (30) calendar days ~~without written notice of extension by the department head director. When an extension beyond the 30-day period is required, the department head director must advise the employee in writing in writing of the extension, the length of the extension, and of the specific reasons for extension, the extension, and the specific reasons for the extension.~~ If no action has been taken by a department by the end of the 30-day period and no further extension has been imposed, the department must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee. It is permissible to place an employee in investigation status with pay only to:

- (1) Investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
- (2) Provide time within which to schedule and conduct a pre-disciplinary conference; or
- (3) Avoid disruption of the work place or to protect the safety of persons or property.

(l) *Investigative suspension for ALL employees not subject to state personnel act.* Investigation status is used to temporarily remove an employee from active work status. Suspension may be necessary in either causes relating to performance of duties or personal conduct.

~~detrimental to county service.~~ Placement on investigation with pay does not constitute a disciplinary action as defined in this section and is not appealable. Suspension is intended for use in providing time to investigate, establish facts, and to reach a decision concerning an employee's actions in those cases where it is determined the employee should not continue work pending a decision.

During the investigation, hearing, or trial of an employee on any criminal charge, or during the course of certain civil actions or other situations involving an employee or when suspension would be in the best interest of the employee or the county, the department head may, with the county manager's approval, suspend the employee with ~~or without~~ pay for an indefinite period.

- (1) ~~With pay. (4) Without pay.~~ The department head must notify an employee in writing of the reasons for investigative suspension not later than the second scheduled workday after the beginning of the suspension. An investigatory placement with pay may last no longer than 30 calendar days without written notice of extension by the department director. When an extension beyond the thirty-day period is required, the department director must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension. If no action has been taken by a department by the end of the 30 day period and no further extension has been imposed, the department must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision. It is permissible to place an employee in investigation status with pay only to:
- a. Investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
  - b. Provide time within which to schedule and conduct a pre-disciplinary conference; or
  - c. Avoid disruption of the workplace or to protect the safety of persons or property.
- Failure of the employee to report back to work when requested or at the expiration date of the suspension will result in termination of employment effective the date the employee fails to return.

- (2) *Without pay.* When facts are known to the department head which, in his judgment, would seriously impact the department's ability to maintain the integrity of such department or maintain the level or quality of such services provided by such department and only in those events, the department head, with the approval of the manager, may suspend an employee without pay for a minimum of one full workweek. If, in the judgment of the department head and county manager, the employee was not at fault and the suspension is terminated by full reinstatement, the employee may be granted full recovery of pay and benefits for the period of the suspension. Failure of the employee to report back to work when requested or at the expiration date will be considered to have terminated his employment effective on the date of suspension without reinstatement of pay and benefits, and any subsequent reinstatement or reemployment shall be on the basis of new employment.

(m) *Credentials.* By statute and rule, some duties assigned to positions may be performed only by persons who are duly licensed, registered or certified as required by relevant authority. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the County Personnel department or in the position description for the position.

- (1) Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law or applicable rule. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct. ~~or grossly inefficient job performance.~~ And employee is dismissed for failure to obtain or maintain credentials shall be dismissed under the procedural requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance.
- (2) Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment, disciplinary action shall be administered as follows:
  - a. If an employee was determined to be qualified and was selected for a position based upon falsified work experience, education, registration, licensure, or certification information that was a requirement for the position, the employee must be dismissed in accordance with subsection (i) of this section.
  - b. In all other cases of post-hiring discovery of false or misleading information, disciplinary action shall be taken, but the severity of the disciplinary action shall be at the discretion of the department head.
  - c. When credential or work history falsification is discovered before employment with a department, the applicant shall be disqualified from consideration for the position in question.

(Code 1995, §270.104)



(2) Without pay. When facts known to the department head, which in his judgment, would seriously impact the department's ability to maintain the integrity of such department or maintain the level or quality of such services provided by such department and only in those events, the department head with the approval of the manager, may suspend an employee without pay for minimum of one full work week.

If in the judgment of the department head and the county manager, the employee was not at fault and the suspension is terminated by full reinstatement, the employee may be granted full recovery of pay and benefits for the period of the suspension.

Failure of the employee to report back to work when requested or at the expiration date will be considered to have terminated his/her employment effective the date of suspension without reinstatement of pay and benefits and any subsequent reinstatement or reemployment shall be on the basis of new employment.

**(L) CREDENTIALS**

By statute, and rule, some duties assigned to positions may be performed only by persons who are duly licensed, registered or certified as required by the relevant provision. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the County Personnel Department or in the position description for the position.

(1) Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance. An employee who is dismissed for failure to obtain or maintain credentials shall be dismissed under the procedural requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance.

(2) Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with an department, disciplinary action shall be administered as follows:

(a) If an employee was determined to be qualified and was selected for a position based upon falsified work experience, education, registration, licensure, or certification information that was a requirement for the position, the employee must be dismissed in accordance with Subpart (H).

(b) In all other cases of post-hiring discovery of false or misleading information, disciplinary action shall be taken, but the severity of the disciplinary action shall be at the discretion of the department head.

(c) When credential or work history falsification is discovered before employment with an department, the applicant shall be disqualified from consideration for the position in question.

HISTORY NOTE: Statutory Authority G.S. 126-4; 126-35

Eff. December 1, 1995; Ord. Amd. 11-4-96.

**Sec. 28-118163. Performance evaluation.**

The appropriate supervisor or department head to whom the employee reports ~~reports to~~ for work assignments, schedule or other matters shall annually review the performance of each county ~~each~~ employee. This annual review ~~should must take place~~ be conducted during the anniversary month of employment. The written evaluation of the employee must be received in the Personnel department prior to the payroll deadline date of the pay period in which an annual increment would be due. Said ~~The performance~~ evaluation shall be placed in the employee's official personnel file in the Personnel department. ~~Effective Date of Any Performance Increase~~ Any salary adjustment based on the performance evaluation (also known as annual increment), performance increase, generally called Annual Increment, will be effective on the first day of the month following the anniversary month. ~~Transfers and Promotions~~ Performance shall also be evaluated at the time of a transfer or promotion so that the entire year's work history is reflected. ~~Job Description Changes~~ If the position has had job description changes which that changes duties but not classification, the ~~Te~~ supervisor shall direct the employee to update ~~the ensure that all changes in employee duties are reviewed and incorporated into a current his/her job description.~~ The performance evaluation shall be placed in the employee's official personnel file in the Personnel department.

The requirement of annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation. Department heads are required to approve any such waiver and provide written verification to the personnel department.

(Code 1995, §270.105)

**Sec. 28-164. Delay of performance evaluation, including probation.** Any employee's absence from work due to approved sick leave, leave without pay, workers' compensation, or any other authorized leave will result in an extension of the employee's annual performance evaluation review, so as to allow adequate time for evaluation of performance.

**Sec. 28-165. Probationary period.**

(a) New hires with the county: A probationary period of nine months from the date of hire shall be served by all employees in permanent positions in the service of the county except for employees hired as trainees or employees of the sheriff and register of deeds. ~~supervisors~~ If a new hire is not meeting expectations, the supervisor is required to ~~shall~~ hold a ~~six-month~~ performance conference to inform the employee of any unsatisfactory performance. The supervisor shall be responsible for evaluating the performance of the employee during the probationary period and shall complete a performance evaluation prior to the expiration date of the probationary period which either recommends the employee for permanent status or recommends termination of employment. The probationary period shall be extended for the amount of time the employee is on approved leave without pay. The requirement of annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation.

(b) Transfers: When an employee transfers from one department of the County to another a new, probationary period of up to six (6) months may be imposed. If so, this must be communicated in the hire letter.

(c) Trainees are considered to be on probation until they satisfy the requirements established in their appointment letter.

~~Leave without Pay The probationary period shall be extended for the amount of time the employee is on approved leave without pay. Waiving Annual Evaluation After Probationary Evaluation. The requirement of annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation. Department heads are required to approve the waiving of the evaluation based upon supervisory recommendation, and to send the Personnel Director a statement that you approve waiving the evaluation. (Code 1995, §270.108)~~

#### **Sec. 28-420166. Permanent status.**

Permanent status shall be granted to all fully qualified and work against employees in officially budgeted permanent positions after satisfactory completion of the nine month probationary period, except if a permanent employee is transferred to another position as a part of a reduction in force, a new nine-month probationary period shall be established as a condition of transfer; and except for employees of the sheriff and register of deeds who serve at the pleasure of the respective department head. ~~Trainees~~ Trainee employees shall be granted permanent status at the end of nine months probation or the trainee period whichever is longer. ~~Promotions, Transfers and Demotions:~~ Should an employee with permanent status be promoted, laterally transferred or demoted to a position for which he would be a trainee, permanent status is waived until such time as the employee meets the required minimum education and skills required for the new position satisfying the trainee requirement. ~~satisfying the trainee requirements.~~

(Am. Ord. Passed 8-3-98)

#### **Sec. 28-421167. Reduction in force.**

(a) If a reduction in force becomes necessary for the county, either for lack of funds, revenues or lack of available work, the following procedures shall be followed:

- (1) Consideration of organizational needs of the county and the affected department ~~necessitate a departmental reorganization within parameters set by funding sources.~~
- (2) A determination shall be made about which position or portion of a position the department ~~organization~~ can best do without.
- (3) If there is more than one position in a department that could be abolished, the value of an individual's performance to the organization department organization shall be considered.
- (4) All other considerations set forth herein being equal, length of service shall be considered, but shall not be the controlling consideration.
- (5) No permanent employee shall be separated while there are part-time, temporary or probationary employees serving in the same class within the same department, unless the permanent employee is not willing to transfer or reassign,; or unless the permanent employee does not have the knowledge or ~~and~~ skills required to perform the work of the ~~an~~ alternate position ~~within the same class within a~~ within the same class within a reasonable period of orientation or training such that ~~that~~ would be given to a new employee.
- (6) Employees shall be given at least ~~two~~ three weeks' written notice of a ~~the~~ reduction in force.
- (7) A permanent employee who is separated due to a reduction in force shall have the right to appeal in accordance with the grievance procedure, to ensure that reduction in force procedures were followed. Permanent employees under the department of human resources shall have a further right to appeal to the ~~on~~ ~~Office of~~ administrative hearings.

~~(b) All Reduction in force criteria must be approved by the county manager before implementing the reduction in force.~~  
(Code 1995, §270.110)

#### **Sec. 28-422168. Demotion.**

The County recognizes two types of demotion –voluntary and involuntary.

A demotion is a change in job responsibility to a position ~~in of lesser responsibility~~ and a lower salary grade. A department head may demote an employee under the following conditions:

- (A) ~~Nondisciplinary.~~ **Voluntary.** When the employee and the employer agree that the employee is unable to perform in the current position, but shows promise of becoming a satisfactory employee in a lesser position, an assignment to a lesser position may be made without an application process; and
- (B) **Disciplinary. Involuntary.** When an employee's performance or conduct is sufficient to satisfy grounds for dismissal, a department head may consider demotion in lieu of dismissal.-

(Code 1995, §270.111)

**Sec. 28-169. Secondary or outside employment.**

~~The Full time employment with work of the county takes priority over other employment interests of employees. All outside employment for salaries, wages or commissions, and all self-employment, must be reported to and approved by the employee's department head before such work is to begin. The department head will determine whether the outside work would create a conflict of interest or otherwise be incompatible with county service. The assumption of outside employment without prior approval by the county, including the number of hours worked, may will be deemed improper conduct and subject the employee to disciplinary action.~~

**Sec. 28-132170. Grievance procedure.**

~~Purpose.~~ The grievance procedure exists to provide prompt and orderly resolution of problems arising between the employer supervisor and employee, or when policies or working conditions exist that are creating problems, which may be creating, or perceived to be creating problems in the workplace.

(a) ~~It is the intent of the county government to provide a system of employee appeals or grievances which is substantially equivalent to the system developed and maintained by the state under G.S. §§ 126-1 et seq. In order to maintain harmonious and cooperative relationships between the county and its employees, it is the policy of the county to provide for the settlement of complaints through an orderly complaint procedure free from interference, discrimination, or reprisal. The employee shall file all correspondence regarding appeals with the Personnel director. The procedure exists to insure employees the opportunity to be heard without fear of reprisal or retaliation, and to be heard fairly and promptly.~~ Grievances which are not received within the time allowed as prescribed in this section or which are not filed with the personnel director as prescribed in this Section shall be dismissed.

~~(a) Coverage~~ This grievance procedure applies to all departments and employees of the County, except in those instances when North Carolina statutes apply to certain activities of the sheriff or register of deeds, where the actions are allowable by the Sheriff and Register of Deeds in the NC General Statutes. Employees in Social Services, Public Health and Mental Health have additional further rights to grievances under the State Personnel Act.

(a) All permanent employees shall have the right to grieve the following:

- (1) Disciplinary actions; dismissals, ~~disciplinary~~ **involuntary** demotions, and suspension without pay.
- (2) Failure to be promoted, and salary adjustments.
- (3) Allegations of illegal acts of the employer.
- (4) Written warning and performance evaluations are appealable, and the decision of the department head is final, except when the department head is the supervisor, and only then to the county manager. Issues with FLSA, Age Discrimination Act, FMLA or ADA

~~(4) Written warnings and performance evaluations are appealable and the decision of the department head is final, except where the department head is supervisor, and only then to the County Manager.~~

~~Performance evaluations. The decision of the department head is final, except when the department head completed the evaluation.~~ **Unlawful Workplace Harassment.** Due to the nature of the issues, the employee has the right to appeal directly to the Personnel Director.

**(5) Allegations of workplace harassment should be made to the personnel director. If the allegation is against the personnel director, the report shall be made to the county manager.**

**Procedure.**

~~The County grievance procedure provides at most two levels of hearings: department head and county manager. The number of hearings is dependent upon the level in the organization that the action under appeal was taken and the type of action. Except in those instances described in this section, there is only a one (1) step grievance procedure, in all other cases it is a two (2) step process, with the department head and then the county manager being the ultimate decision makers.~~

~~The~~ (a) An employee must file a ~~the~~ grievance, in writing, with the personnel director and the immediate supervisor within seven (7) calendar days of the date of the ~~appealable~~ action being grieved. The written notice of filing shall include the date of the allegedly offensive action, and the reasons for the appeal. A hearing will be scheduled to consider the employee's grievance. The department head ~~supervisor or official~~ who will conduct the hearing shall, within seven (7) calendar days of receipt of the grievance notice, advise the employee of the date, place and time for the hearing.

(b) Employees shall be allowed one hour from regular duties for preparing a grievance.

(c) An employee shall have the right of legal counsel and the expense of legal counsel shall be borne by the employee. to legal counsel, and the expense of legal counsel shall be borne by the employee.

(d) Advisory services pertaining to procedures and regulations are available from the county personnel director or the staff attorney and may be used by the employee, supervisor or department head to settle grievances or complaints at any level.

(e) Every attempt will be made to resolve the grievance informally. The department head hearing officer shall issue a written decision on the grievance not later than seven (7) calendar days after the hearing. The decision shall include notice of further appeal rights.

Step Two. If the employee is dissatisfied with the response at Step One, and the issue falls into one of the categories where further appeals are allowed, the employee may file a grievance in writing to the Personnel Director and County manager or department head within seven (7) calendar days of receipt of the written decision. The grievance shall state concisely the basis for the complaint.

(f) In order that all employees may be able to obtain further consideration of their problems, it is essential that two-way communication occur, and the supervisor shall make every effort to resolve the problem or correct the misunderstanding prior to the grievance procedure.

(F) Hearings. The county grievance procedure provides at most two levels of hearings; department head and County manager. The number of hearings is dependent upon the level in the organization that the action under appeal was taken and the type of action.

(1) The time allowed for appeal is as follows:

(a) *Dismissal, suspension without pay and demotion.* An employee shall file a written appeal promptly, within seven (7) ~~45~~ calendar days after an appealable action along with appeal rights is received. The employee shall attach all additional information and supporting documents to the appeal. The notice of appeal shall be received by the Personnel director by 5:00 on the seventh ~~fifteenth~~ day.

(b) Other appeals. An employee shall file a written appeal promptly within seven calendar days after an appealable action along with appeal rights is received. The employee shall attach all additional information and supporting documents to the appeal. The notice of appeal shall be received by the Personnel director by 5:00 on the seventh day.

(2) The county official who will conduct the hearing shall within seven calendar days contact the employee to set the date, place and time for oral presentation of the grievance.

(3) The county official shall make every possible effort to achieve an equitable solution to the problem at this meeting but may take the necessary time to investigate the problem.

(4) In no event shall the county official delay, more than seven (7) calendar days from the grievance conference without the consent of the employee, rendering a decision.

(5) The county official shall render a decision in writing. Such writing shall contain the employee's and the county official's statements and the county official's conclusions. The written decision shall also contain notice of further appeal rights and shall designate the county official who should hear a continuation of the grievance if applicable.

~~(6) If the conclusions are satisfactory the procedure is ended and the documents are filed in the Personnel Department. If the conclusions are unsatisfactory, the employee may proceed up the chain of command, dependent upon where the grievance began. If the conclusions are satisfactory, the procedure is ended and the documents are filed in the personnel department. If the conclusions are unsatisfactory, the employee may proceed up the chain of command, dependent upon where the grievance began. The employee shall have seven calendar days from the receipt of the decision to file a written request with the Personnel director for continuation of the appeal. The employee shall attach all additional information and supporting documents to the notice of continuation of the appeal. The notice of continuation of the grievance shall be received by the personnel director by 5:00 of the seventh day.~~

(7) The decision of the County manager is administratively final, except that ppermanent employees of the departments of social services, public health and mental health who are subject to the state personnel act will have 30 days to appeal an appealable decision of the county manager to the state personnel commission. Appeals to the state personnel commission must be filed in writing with a copy furnished to the personnel director. Employees should consult with the state personnel commission regarding the state appeals procedures.

(h) Exceptions. An initial probationary employee as set forth in section 28-119 may be released at any time during the probationary period for causes relating to the performance of duty or personal conduct without right of appeal or hearing.

(Code 1995, §27.112)

**Secs. 28-124~~171~~ –28.150 ~~195~~. Reserved.**

## **ARTICLE V ~~VI~~. EMPLOYEE BENEFITS AND SERVICES**

### **Sec. 28-151 ~~196~~. Eligibility.**

The benefits provided by this article shall be applicable to those county employees who are employed in full-time, four-fifths, half-time, or other permanent, probationary and trainee officially budgeted positions. Excluded from this article are part-time and temporary positions. ~~s The Family Medical Leave Act of 1993, as provided in section 28-272, confers leave for maternity related disability and for compelling family medical reasons to eligible employees.~~

(Code 1995, §270.123)

### **Sec. 28-152 ~~197~~. Annual leave.**

*Annual leave is a benefit. Department heads have the right to deny time off when the needs of the county so require.*

(a) *Leave year.* For the purpose of earning and accruing annual leave, the 12-calendar month period between January 1 and December 31 is established as the leave year for the county.

(b) *Annual leave earned.* Each full-time permanent, probationary, or trainee employee occupying an officially budgeted position shall earn annual leave on a monthly basis in accordance with the following schedule of total service:

Years	Hours Month	Annual
Less than 2 years	6.666	80
2 but less than 5	8	96
5 but less than 10	10	120
10 but less than 15	12	144
15 or more	14	168

(a) *Procedures.* Annual leave procedures are as follows :

~~organization prohibit time off~~ (1) Annual leave earned by an employee shall be taken only upon prior approval of the employee's supervisor. However, an annual leave request of an emergency nature must be made by the employee and approved by the supervisor within 30 minutes of the beginning of the workday or shift.

(2) Annual leave may be taken in units of quarter hours ~~units of quarter hours.~~

~~Holidays are not charged as annual leave when they occur during a period when an employee is taking annual leave.~~ (3) Holidays or regularly scheduled days off which occur during a period of annual leave are not charged as annual leave when they occur during a period when an employee is taking annual leave.

(4) Annual leave shall ~~shall~~ be transferred to sick leave with ~~with~~ notice to the department head, when ~~when~~ sick leave has been exhausted.

(5) Annual leave accruals in excess of 240 hours for all employees shall transfer automatically to sick leave on December 31 of each year.

(6) When annual leave had been exhausted, the granting of leave without pay is at the discretion of the department head. Leave without pay shall be deducted from the employee's pay on a two-week-pay-period basis. See section 28-159 ~~116~~ pertaining to leave without pay. ~~See 138 Leave Without Pay.~~

(7) Annual leave shall not be advanced to any employee. ~~to any employee.~~



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(8) If an employee separates from employment when leave without pay had been approved, ~~had been approved, then~~ the employee's final pay check shall be reduced proportionately.

(9) A maximum of 240 hours accrued annual leave for all employees will be paid upon separation from county service when the employee gives notice of separation as specified in Sec. 28-155. ~~at least three weeks in advance of the separation date.~~ Leave will be compensated by separate payment in the pay period following the employee's final regular pay period. ~~check~~

(10) An employee who is involuntarily separated without fault shall be paid for all accrued annual leave not to exceed a maximum of 240 hours.

(11) An employee who is terminated for cause or who does not submit the required three week notice of separation shall not be compensated for accrued annual leave.

(12) An employee who must retire due to a disability may transfer annual leave to sick leave and exhaust all leave prior ~~leave~~ to the effective date of separation.

(13) An employee may take annual leave with approval of the supervisor up to and including the date of separation.

(14) An employee retains active employment status during a period of annual leave up to and including the date of separation.

(15) Upon the death of a permanent employee, compensation for accumulated leave shall be paid to the employee's estate or designated beneficiary. ~~Holidays or regularly scheduled days off which occur during a period of annual leave shall not be charged as annual leave.~~

(1647) Holidays or regularly scheduled days off which occur during a period of annual leave shall not be charged as annual leave.

(17) It shall be the responsibility of the personnel director to maintain a record of annual leave on each employee, which shall be responsibility of each supervisor to provide in a timely fashion.

~~(1848) An employee who has resigned or been subject to a Reduction in Force may request the time be transferred to a new employer, if that employer allows the transfer of accrued vacation. time. This request shall be made in writing prior to the effective date of resignation- last date of employment with the county.~~

(Code 1995, §27.124)

**Editor's note:** Employees earning annual leave at a rate of 16 hours per month as of July 1, 1989, were given the option to make a one-time-only election to reduce annual leave accrual to 14 hours per month and to increase their sick leave accrual to ten hours per month. A salaried employee working less than 40 hours per week (four-fifths, one-half, or other) and occupying an officially budgeted position with benefits shall earn annual leave on a pro rata basis based upon the category of the employee (four-fifths, one-half, or other). Example: A half-time employee with two years of service would earn 5 percent of the leave which would be earned by a full-time employee with two years of service.

#### **Sec. 28-453 198. Purchase of annual leave.**

A salaried employee hired into an officially budgeted position with benefits may be allowed to purchase annual leave which was accrued, not taken, and ~~and~~ paid by the immediately previous employer. The employee must request to purchase the leave within 30 days of the commencing employment date with the county. The amount to be purchased may not exceed 80 hours, and it must be purchased at the employee's rate of pay with the county. ~~current rate of pay.~~

(Code 1995, §270.124.1)

#### **Sec. 28-454 199. Sick leave.**

(A) Sick leave for county employees is a benefit provided by the county. ~~privilege and Abuse abuse~~ of sick leave policies and practices will be considered a disciplinary offense. Sick leave earned by an employee shall be taken only upon prior approval of the employee's supervisor. However, that sick leave of an emergency nature must be

requested by the employee and approved within thirty (30) minutes of the beginning of the workday or shift. The county provides eight (8) hour's sick leave each month to each full-time permanent, probationary, or trainee employee occupying an officially budgeted position. Sick leave is provided on a pro rata basis based upon the category of the employee when the work week is less than 40 hours (four-fifths, half-time or other).

**Editor's note**-Employees earning annual leave at a rate of sixteen (16) hours per month as of July 1, 1989 were given the option to make a one time only election to reduce annual leave accrual to fourteen (14) hours per month and to increase their sick leave accrual to ten (10) hours per month.

(b) As used in this subsection, immediate family, for all purposes, shall be wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepbrother, stepsister, or as otherwise approved by the department head. Department head's may also approve leave for persons with whom the employee is living in a close, personal relationship. An employee may be granted sick leave if the absence is due to:

(1) Sickness or injury which prevents the performance of usual duties.

(2) Disability as defined by the county short term disability plan.

(3) Paternity to coincide with wife's period of disability when a physician certifies the employee is needed to care for his ~~the~~ wife, otherwise vacation or other paid leave may be used for the birth of a child, adoption or foster placement.

(4) Exposure to a contagious disease when continuing work, in the judgment of a physician, might jeopardize the health of others.

(5) Medical and dental appointments of employee or immediate family.

(6) Quarantine due to a contagious disease in the employee's immediate family.

(7) Illness in the employee's immediate family which requires the care from ~~of~~ the employee;

(8) Death of a member of the employee's immediate family. An absence in excess of three days must be approved by the department head.

(9) A supervisor may require a physician's statement when an employee requires sick leave in excess of three (3) consecutive days, when the reason for sick leave is unclear or when sick leave patterns are suspect. The employee shall have 15 days to provide a medical certification and if the employee fails to provide the medical certification within the allowable time, the absence will be considered unexcused and subject to disciplinary action. The director of personnel ~~of Personnel~~ may require a second opinion in certain circumstances. No sick leave will be charged for a mandatory examination.

(10) The costs of second opinion examinations and other examinations where the appropriate use of sick leave is in question, shall be borne by the County.

(c) Sick leave procedures are as follows:

(1) Sick leave is cumulative indefinitely.

(2) Sick leave may be taken in units of quarter-hours. ~~units of quarter hours.~~

(3) On December 31 of each year, sick leave balances are increased by automatic transfers of all annual leave hours in excess of 240 hours for all employees.

(4) All unused floating holiday hours shall automatically transfer to sick leave at the end of the fiscal year.

(5) When sick leave has been exhausted, annual leave shall be transferred to sick. When all paid leave had been exhausted, the granting of leave without pay is at the discretion of the department head. Any reimbursements due the county because of ~~Leave without pay shall be deducted from the employee's pay on a two-week-pay-period basis. See section 28-116 pertaining to leave without pay. ~~See 138 Leave Without Pay.~~~~

(6) Sick leave shall not be advanced to any employee.

(7) All benefits to which an employee is entitled continue to accrue while an employee is out of work on sick leave or when sick leave is used to supplement short-term disability or workers' compensation benefits.

(8) An employee may use sick leave to supplement workers' compensation benefits up to 100% of gross salary.

(9) All unused sick leave is lost upon separation of employment, except when separation is due to retirement. ~~or section 28-155.~~

(10) Holidays or regularly scheduled days off which occur during a period of sick leave shall not be charged as sick leave.

(11) It shall be the responsibility of the personnel director to maintain a record of sick leave on each employee, which shall be the responsibility of each supervisor to provide in a timely fashion.

(C) Sick leave use. Supervisors may require an employee to use compensatory time in lieu of sick leave.  
(Code 1995, §270.125)

**Sec. 28-155 ~~200~~. Reinstatement and transfer of sick leave.**

~~(a) A former employee who is reemployed by the county within five years following from the date of separation, shall be credited with the balance of sick leave at the time of separation, except when the employee retired under the state Local Governmental Employees' Retirement system or when the terminated employee transferred the balance of sick leave to another employer. If the retired employee returns to permanent employment with the county, sick leave will begin with the balance of sick leave minus the amount of sick leave used toward creditable service for retirement purposes. If the terminated employee who who transferred sick leave to another employer returns to work for the county, the sick leave balance reinstated will be the balance remaining after the transfer. remaining after the transfer.~~

(a) Former employees reemployed by the county: Employees who return to employment with the County will be allowed to transfer the balance of sick leave from the former employer under the following conditions:

- (1) The former employer was a member of one of the divisions of the State Retirement System
- (2) The employee does not have more than a fifteen (15) day period of unemployment between the former employer and Catawba County
- (3) The employee did not retire from any unit under the State Retirement System, including Catawba County.

(b) Former Employees Who Retire:

Any former employee who retired from Catawba County or any unit of the State Retirement System, and reported sick leave to the Retirement System, will not be allowed to transfer that sick leave to the County.

(c) Employees at the Time This Code is Adopted

Any current employees at the time this Code is adopted, who have not been allowed to transfer all their sick leave from previous County employment, or eligible employment as allowed under this Code, will be allowed to do so. Appropriate documentation must be submitted and approved by the Personnel director.

~~(b)~~ (d) Any former employee of an agency which is a member of the state local governmental employee's retirement system or the state employees' retirement system or other systems under the department of state treasurer, who is hired by the county within 12 months of the ~~of the~~ termination with the former agency, shall be eligible to transfer the balance of sick leave available to the employee at the time of termination with the past employer. A written request for transfer of sick leave must be made to the personnel director within 90 ~~30~~ days of employment by Catawba County. Proper documentation, as determined by the personnel director verifying accumulated sick leave hours must be received with the request. Sick leave transferred to the county in this manner is subject to all of the provisions of section 28-200.

(Code 1995; 270.125.1)

**§Sec. 28-272 ~~201~~. Family and Medical Leave Act.**

(a) *Purpose.* The Family and Medical Leave Act (FMLA) of 1993 was passed by Congress to:

- (1) Balance the demands of the workplace with the needs of families, promote the stability and economic security of families, and promote national interests in preserving family integrity;
- (2) Minimize the potential for employment discrimination on the basis of sex by ensuring generally that



leave is available for eligible medical reasons, including maternity-related disability, and for compelling family reasons; and

(3) Promote the goal of equal employment opportunity for women and men.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Adoption* means placement of a child for purposes of legal adoption following the filing of an adoption petition.

*Child* means a son or daughter under 18 years of age, or one 18 or over, incapable of self-care because of a mental or physical disability, who is:

- (1) A biological child.
- (2) An adopted child.
- (3) A foster child.
- (4) A stepchild.
- (5) A legal ward.
- (6) A child of the employee standing in loco parentis.

*Foster care* means placement of a child as a result of state action, rather than an informal arrangement to take care of another person's child.

*Health care provider* means:

- (1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the state; or
- (2) Any other person determined by statute, credential, or licensure to be capable of providing care services.

*Intermittent work schedule* means a work schedule in which an employee works on an irregular basis and is taking leave in separate blocks of time, rather than for one continuous period of time, usually to accommodate some form of regularly scheduled medical treatment.

*Light duty* means when a treating physician certifies an employee may return to work, but is unable to perform one or more of the essential functions of the employee's position although the employee may perform other of the employee's less demanding tasks.

*Loco parentis* means persons who have the responsibility for the day-to-day care and financial support of a child. A biological or legal relationship is not necessary.

*Parent* means a biological or adoptive parent, or one who stood in loco parentis to the employee when the employee was a child. This term does not include parent-in-law.

*Reduced work schedule* means a work schedule involving less hours than an employee is regularly scheduled to work.

*Serious health condition* means an illness, injury, impairment, or physical or mental condition that involves:

- (1) Any period of incapacity or treatment connected with inpatient care, such as an overnight stay, in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care.
- (2) Continuing treatment by a health care provider which includes any period of incapacity, such as inability to work, attend school, or perform other regular daily activities, due to one or more of the following: a health condition, including treatment therefor or recovery therefrom, lasting more than three consecutive days and any subsequent treatment or period of incapacity relating to the same condition that includes:
  - a. Treatment two or more times by or under the supervision of a health care provider; or
  - b. Treatment by a health care provider one time with a continuing regimen of treatment;.
- (3) Pregnancy or prenatal care;.
- (4) Any period of incapacity or treatment due to a chronic serious health condition, even when the

employee or family member does not receive treatment from a health care provider during the absence and even if the absence does not last more than three days, which is defined as one:

- a. Requiring periodic visits or treatment by a health care provider or by a nurse or physician's assistant under the direct supervision of a health care provider;
  - b. Continuing over an extended period of time, including recurring episodes of a single underlying condition; and
  - c. Which may cause episodic rather than continuing periods of incapacity (for example, asthma, diabetes, epilepsy, and the like).
- (5) A permanent or longterm condition from which treatment may not be effective (for example, Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment and even if the absence does not last more than three days.
- (6) Multiple treatments from restorative surgery or incapacity for serious conditions that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment (chemotherapy, radiation, dialysis, and the like).

Note: Treatment includes but is not limited to examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Ordinarily, unless complications arise, the following are examples of conditions that do not meet the definition: common cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, cosmetic treatments, and the like. The following may meet the definition if all of the other conditions of this section are met: restorative dental or plastic surgery after an injury or removal of cancerous growths, mental illness, resulting from stress or allergies, treatment for substance abuse.

*Spouse* means a husband or wife as recognized by state law.

*Twelve-month period* means a "rolling" 12-month period measured backward for the date the employee uses any FMLA leave. Each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12-workweek entitlement which has not been used during the preceding 12 months.

*Workweek* means the number of hours an employee is regularly scheduled to work each week.

- (c) *Eligibility.* Eligibility for family and medical leave is determined in accordance with the following:
- (1) *Determining eligibility.* An employee's eligibility for family/medical leave shall be based on the employee's months of service and hours of work as of the date the leave is to commence.
  - (2) *Eligibility criteria.* Any employee, permanent, probationary, or trainee, who has worked for the county government for at least 12 months and has worked at least 1,250 hours (Vacation, sick, workers' compensation, disability, and other forms of leaves are not considered hours worked) over the previous 12 months is entitled to a total of 12 workweeks of leave, paid or unpaid, during a 12-month period for one or more of the following reasons:
    - a. For a birth of a child and to care for the newborn child after birth, provided leave is taken within a 12-month period following birth (An expectant mother shall also take FMLA leave pursuant to subsection (c)(2)d of this section before the birth of the child for prenatal care or if her condition makes her unable to work);
    - b. For the placement with the employee of a son or daughter for adoption or foster care, provided the leave is taken within a 12-month period following adoption (FMLA must also be granted before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed);
    - c. For the employee to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or
    - d. Because the employee has a serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position.

Note: Husbands and wives employed by the county are only entitled to 12 aggregate number of workweek's leave during a 12-month period where such leave is taken pursuant to subsection (c)(2)a or (c)(2)b of this section and pursuant to subsection (c)(2)c of this section if the leave requested is to care for either of the employee's parents who has a serious health condition.

- (d) *Leave charges.* Leave shall be charged as follows:
- (1) Periods of paid leave, periods of leave without pay, including leave without pay while drawing shortterm disability, and absences due to workers' compensation count toward the 12 workweeks to which the employee is entitled.
  - (2) When an employee returns to work on light duty, the time spent working in light duty is counted toward 12 workweeks to which the employee is entitled.
  - (3) Employees who have FLSA overtime may not be required to use this time for family medical leave; however, FLSA straight time and compensatory time if available must be exhausted before a period of leave without pay may begin.
  - (4) Employee options are as follows:
    - a. *Birth.* For the birth of a child, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay, except that sick leave shall be used only during periods of disability.
    - b. *Adoption.* For the adoption or foster care of a child, the parents shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay.
    - c. *Illness of child, spouse, parent.* For the illness of an employee's child, spouse, or parent, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay.
    - d. *Employee's illness.* For the employee's illness, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay. If the illness extends beyond the 28-day waiting period required for shortterm disability, the employee begins receiving shortterm disability benefits and may elect to use the balance of paid leave to supplement shortterm disability up to 100 percent of the employee's gross salary. When an employee is absent under workers' compensation, the employee may elect to use the balance of sick leave to supplement the workers' compensation benefits up to 100 percent of the gross salary.
- (e) *Intermittent leave or reduced work schedule.* Intermittent leave or a reduced work schedule may be granted as follows:
- (1) Pursuant to this policy, the employee may not take leave intermittently or on a reduced work schedule for childbirth and birth-related child care or for adoption unless the employee and the department agree otherwise; however, when medically necessary, the employee may take leave intermittently or on a reduced schedule to care for the employee's child, spouse, or parent who has a serious health condition or because the employee has a serious health condition. If such leave is foreseeable, based on the planned medical treatment, the department may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave.
  - (2) Only the time actually taken as leave shall be counted toward the 12 weeks of leave to which the employee is entitled when leave is taken intermittently or on a reduced leave schedule.
  - (3) If an employee works a reduced or intermittent work schedule and does not have leave available to make up the difference between the normal work schedule and the new temporary schedule to bring the number of hours worked up to the regular schedule, the employee's pay status will be changed to reflect the reduction in hours scheduled resulting in a reduction in leave accrual and other benefits not subject to the Family and Medical Leave Act.
- (f) *Light duty.* Light duty may be authorized as follows:
- (1) *Workers' compensation.*
    - a. If the treating physician for workers' compensation certifies the employee is able to return to a light-duty job, the employee may choose to remain out of work on FMLA leave for the remaining portion of the employee's FMLA leave period.
    - b. As a result of declining a light-duty position, the employee may lose workers' compensation benefits under applicable state law, but is entitled to remain on FMLA leave and is required to exhaust available paid leave before a period of leave without pay may commence. At the end

of the 12-week period, if the employee is unable to perform the essential functions of the original position with reasonable accommodation, the employee loses the right to be restored to that original position.

- c. If the employee voluntarily accepts light duty, the time the employee is on light duty is considered FMLA leave until the end of the 12-week period.
- (2) *Shortterm disability.* If the treating physician certifies the employee is able to return to a light-duty job, the employee will be subject to the terms of the shortterm disability plan governing return to work. If an employee returns to work in a light-duty job, the time the employee is on light duty is considered FMLA leave until the end of the 12-week period. The shortterm disability plan may offer additional protection to the employee beyond the 12-week period under FMLA.
- (g) *Department responsibility.* The director shall ensure that notice provided by the personnel department is kept conspicuously posted where it can be seen by employees and job applicants. The director shall also ensure that written guidance is provided to all employees and supervisors.
- (h) *Supervisor's responsibility.* Responsibilities of supervisors are as follows:
  - (1) *Leave request.* The supervisor shall determine from each employee requesting leave the reason leave is requested. If the employee fails to explain the reason that leave is required, the supervisor may deny leave. It is the responsibility of the supervisor to ensure qualifying leave is designated as family medical leave even when an employee would rather not use any of his FMLA leave entitlement. If the supervisor believes the reason for the leave may be a qualifying reason under FMLA, the supervisor shall then consult with the personnel department in determining if the employee is eligible for family medical leave on the date the leave will commence and, if eligible, in determining that the leave requested is for an FMLA qualifying reason.
  - (2) *Notice of eligibility.* The employee will receive notice from the personnel department regarding eligibility.
  - (3) *Designation of leave as FMLA leave.* Leave is designated as FMLA leave in accordance with the following:
    - a. If information is not sufficient to make a determination, the department shall require the employee to provide information.
    - b. Once a department has knowledge that the reason leave is being taken is for an FMLA-required reason, the supervisor must, within two business days absent extenuating circumstances, ensure the employee is notified that the leave is designated and will be counted as FMLA leave. The notice may be oral or in writing, but must be confirmed in writing no later than the following payday.
    - c. If an absence which begins as other FMLA leave later develops into an FMLA-qualifying absence, the entire leave period that qualifies under FMLA may be counted as FMLA leave. The notification requirements of subsection (g)(3)b of this section apply.
  - (4) *Designation of FMLA leave after return to work.* Procedures for designation of FMLA leave after a return to work are as follows:
    - a. The supervisor may not designate leave that has already been taken as FMLA leave after the employee returns to work, with two exceptions:
      - 1. If an employee is out for a reason that qualifies for FMLA leave and the supervisor does not learn of the reason for the leave until the employee returns to work, the supervisor shall designate the leave as FMLA leave within two business days of the employee's return; or
      - 2. If the supervisor has provisionally designated the leave under FMLA leave and is waiting receipt from the employee of required certifications.
    - b. Similarly, the employee is not entitled to protection of the FMLA if the employee gives notice of the reason for the leave later than two business days after returning to work.
- (i) *Employee responsibility.* The employee shall give notice of the need for leave under this policy and pursuant to the sections of this chapter that address the use of paid leave. The employee must explain the reasons for the needed leave to allow the department to determine that the leave qualifies under the act.

- (1) *Birth, adoption, or foster care.* An employee must give 30 days' written advance notice to the supervisor of the need to take family medical leave when it is foreseeable for the birth or placement of a child for adoption or foster care or for planned medical treatment. If the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice no more than two business days after learning of the need for leave, except where extraordinary circumstances exist.
  - (2) *Planned medical treatment.* When medical treatment is of the type which may be planned for the employee's child, spouse, or parent or when the employee has a serious health condition, the employee must give 30 days' notice, if practicable, of the intention to take leave. For planned medical treatment, employee consultation with the supervisor prior to the approval of leave is mandatory. The county reserves the right to deny leave until 30 days after appropriate notice is provided.
  - (3) *Medical emergency.* If a medical emergency occurs requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, such notice must be given as soon as practicable, ordinarily within one or two business days, or when the employee learns of the need for leave. In a medical emergency notice should be given either in person or by phone to the supervisor and may be given by the employee's spouse or other family member if the employee is unable to do so due to a serious health condition.
  - (4) *Extension of leave.* The employee must notify the supervisor immediately of the need to request the extension of family medical leave. Failure to return to work at the expiration of the approved leave period will be deemed a resignation.
  - (5) *Certification.* The employee shall provide certification in accordance with subsection (j) of this section. If the employee does not provide medical certification, the absence will be considered unexcused and subject to disciplinary action.
- (j) *Employee medical certification.* Employee medical certification may be required in accordance with the following:
- (1) *Adoption.* The supervisor may require a claim for leave because of adoption be supported by reasonable proof of adoption.
  - (2) *Medical certification.* The supervisor may require that a claim for leave because of a serious illness of the employee or of the employee's child, spouse, or parent be supported by a certification from the health care provider. Certification may be required as follows:
    - a. When leave is foreseeable and at least 30 days' notice has been provided, the employee must provide certification prior to leave commencing.
    - b. When it is not possible to provide the medical certification before the leave begins, the employee must provide the requested certification to the supervisor within 15 days following the request. If the employee does not provide medical certification within the allowable time, the absence will be considered unexcused and subject to disciplinary action.
    - c. At the time certification is requested, the employee must be advised of the anticipated consequences of an employee's failure to provide adequate certification. The employee shall be given a reasonable opportunity to correct any incomplete information.
  - (3) *Medical certification form.* The personnel department shall be responsible for developing internal procedures and forms to be used for medical certification which comply with the requirements of the FMLA.
  - (4) *Validity of certification.* A determination of the validity of the certification may be made as follows:
    - a. The health care provider may be contacted for clarification or authenticity of the medical certification by the personnel director.
    - b. If the personnel director has reason to doubt the validity of the medical certification, the employee may be required to get a second opinion, at the county's expense. Pending the receipt of the second or third opinions, the employee is entitled provisionally to FMLA leave. If the opinions do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave. If the opinions of the employee's and the county's health care providers differ, a third opinion may be required again at the county's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the county and the employee.

(5) *Recertification of medical conditions.* Medical conditions may require recertification as follows:

- a. Subsequent recertification to support continuing family medical leave may be required, not more often than 30 days, unless:
  1. The employee requests an extension of leave;
  2. There are changed circumstances regarding the illness or injury; or
  3. Information is received which casts doubt upon the continuing validity of the employee's stated reason for the absence.

If the minimum duration specified on a certification is more than 30 days, the county may not request recertification until that minimum duration has passed unless less one of the reasons stated in this subsection (j)(5)a exists.

- b. The requested recertification must be provided by the employee within 15 days of the request unless it is not practicable under the particular circumstances.
- c. The requested recertification shall be at the employee's expense. No second or third opinion on recertification shall be required.

(6) *Fitness for duty certification.* A fitness for duty certification indicating when and if the employee is able to return to work shall be submitted to the personnel department prior to the employee's return to work.

(k) *Employment and benefits protection.* Protection of employment and benefits is in accordance with the following:

(1) *Reinstatement.* The employee shall be reinstated to the same position held when the leave began or one of like pay grade, pay, benefits, and other conditions of employment. The department may require the employee to report at reasonable intervals on the employee's status and intention to return to work. The employee will be required to provide certification to the personnel department that he is able to return to work prior to returning to work.

(2) *Health benefits.* Health benefits are protected as follows:

- a. The county shall maintain coverage for the employee under the county's group health plan for the duration of family medical leave as provided to the employee prior to the granting of family medical leave. Such coverage is conditional upon the employee's contribution for other than individual coverage being paid prior to payroll deadlines. The employee will receive written notice of the terms of the payment of premiums during FMLA leave and a schedule of payment due dates. The obligation to maintain health insurance coverage stops if an employee's premium payment is more than 30 days late. The county will provide 15 days' notice that coverage will cease.
- b. If the employee's failure to make the premium payments leads to lapse in coverage, the employee shall be restored to equivalent health coverage upon return to work as if the premium payments had not been missed without any waiting period or preexisting conditions.
- c. The county reserves the right to recover the cost of health insurance provided to the employee while on FMLA leave should the employee fail to return to work voluntarily.

(3) *Other benefits.* The employee may choose to continue certain other benefits as provided by the county while on family medical leave at the employee's own expense.

(l) *Records.* Records shall be maintained as follows:

- (1) The personnel director shall be provided with all documentation of family medical leave, such documentation to be maintained in the personnel department. Such records shall be maintained for no less than three years and must be available to the department of labor upon request.
- (2) In addition to the records required by the Fair Labor Standards Act, the county must keep records of the following:
  - a. Dates FMLA leave is taken;
  - b. Hours of leave if less than a full day;

- c. Copies of employee notices;
  - d. Documents describing employee benefits;
  - e. Premium payments of employee benefits; and
  - f. Records of any disputes.
- (3) Records and documents relating to medical certifications, recertification or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files, and if ADA is also applicable such records shall be maintained in conformance with ADA confidentiality requirements, except that:
- a. Supervisors and directors may be informed regarding necessary accommodations;
  - b. First aid and safety personnel may be informed, when appropriate, if the employee's physical or medical condition might require emergency treatment; and
  - c. Government officials investigating compliance with FMLA or other pertinent law shall be provided relevant information upon request.
- (m) *Interference with rights.* Rights under this section are protected as follows:
- (1) *Actions prohibited.* It is unlawful to interfere with, restrain, or deny any right provided by this section or to discharge or in any other manner discriminate against an employee for opposing any practice made lawful by this section.
  - (2) *Protected activity.* It is unlawful to discharge or in any other manner discriminate against an employee because the employee does any of the following:
    - a. Files any civil action or institutes or causes to be instituted any civil proceeding under or related to this section.
    - b. Gives or is about to give any information in connection with any inquiry or proceeding relating to any right provided by this section.
    - c. Testifies or is about to testify in any inquiry or proceeding relating to any right provided under this section.
- (n) *Enforcement.* A violation of or denial of leave requested pursuant to the Family and Medical Leave Act of 1993 is not a contested case and creates no right of grievance or appeal under the county grievance process or under the State Personnel Act where applicable. Violations are enforced by the U.S. Secretary of Labor.

(Code 1995, § 270.186)

**Sec. 28-456202. Civil leave.**

All employees are expected to fulfill a citizens' duty requirements to serve on juries when summoned. When a full time employee is called for jury duty or when a part time employee is called for jury duty such that his or her employment will be affected, a copy of the official letter summoning the employee will be submitted to the supervisor.

(a) Jury duty. Compensation. When an employee serves on jury duty, an election must be made to either take annual leave for those days served and retain jury payment or treat those days served as days worked and remit jury payment to the county.

~~(B) Mileage payments. When the judicial district compensates individuals for mileage, such payments shall be retained by the employee if annual leave is taken and shall be remitted to the county and reimbursed by the county upon proper submission of travel voucher if treated as a day worked.~~

~~(c)(C) (b) Required attendance within the scope of employment~~ Required attendance in court. When an employee attends court in connection with official duties or is subpoenaed to appear as a witness, no leave is required.

(Code 1995, § 270.135)

**Sec. 28-457203. Military leave.**

The County complies with all federal rules regarding military leave, including accrual of benefits.

(a) Field Annual training. Any ~~salaries~~ employee occupying an officially budgeted position, who is a member of the National Guard, Naval Militia, Air National Guard or a reserve component of any of the United States armed forces and is required to engage in field training, shall be granted a military leave of absence for the period of such training. This leave of absence, if taken instead of annual ~~vacation~~ leave, shall be supplemented at a rate which is the difference

between an employee's daily rate of pay and what that employee receives during field training. This supplement shall continue up to a maximum period of 17 calendar days.

(b) *Active duty.* An employee who has been called into active duty in the United States military ~~or inducted into the military or naval forces~~ shall automatically be granted an indefinite leave of absence, without pay, for the duration of ~~one term of such active military service.~~

(c) *Other benefits.* The board of commissioners from time to time may approve pay and benefits for employees who are called to active duty during national emergencies. Each employee must be reinstated without loss of privileges or seniority, provided the employee reports for duty with the county within 90 days following ~~an ordinary~~ discharge from service, and provided the employee has reported an intent to report for duty 30 days prior to discharge from service.

(d) *Temporary hires.* Any person filling a position vacated by this subsection shall be given notice that the position being filled is temporary and will expire should the military employee return for employment.

(Code 1995, § 270.136)

#### **Sec. 28-158204. Leave during inclement weather; emergency closing**

~~If~~ If county department operating hours are modified due to inclement weather or other emergencies, employees who ~~are due to inclement weather or other emergencies,~~ absent from work will be required to take leave only for those hours the department is officially open during their work schedule. Leave shall be taken according to the provisions set forth in this article.

§§ 270.123 ~~et seq.~~, Employee benefits and services.

(Code 1995; § 270.137)

#### **Sec. 28-159. Leave without pay. ~~(moved to Sec. 28-116)~~**

(a) ~~The decision to grant leave without pay is solely in the discretion of the department head. Factors to be considered are necessity, duration of leave, workload, and other factors in the best interest of the county. Leave without pay may be granted to employees who have exhausted other forms of leave and do not qualify for leave under the Family and Medical Leave Act of 1993 or to employees for reasons not covered by the Family and Medical Leave Act.~~

(b) ~~Leave without pay procedures are as follows:~~

(1) ~~The request for leave without pay must be made in writing in a timely fashion prior to the anticipated date.~~

(2) ~~Accumulated annual leave must be exhausted before leave without pay may be granted.~~

(3) ~~Accumulated sick leave must be exhausted before leave without pay may be granted in cases of illness where disability is not a factor.~~

(4) ~~No leave shall be earned during a period of leave without pay.~~

(5) ~~An employee on leave without pay status shall be eligible for any continuation of allowable benefits by continuing to pay the employee's share of the cost and the employer's share if applicable.~~

(6) ~~When circumstances arise or when conditions exist which cause a need to fill a position left vacant due to leave without pay, the employee in leave without pay status shall be notified of the need to fill the position and given an opportunity to return to the position within one week of receipt of notice. If the employee on leave without pay status does not return within the specified time, the position shall become vacant.~~

(7) ~~Failure on the part of the employee to report promptly at the expiration of the leave without pay except for reasons submitted in advance to and approved by the department head shall be cause for dismissal.~~

(Code 1995, § 270.138)

#### **Sec. 28-160. Employee education. ~~(Moved to Sec. 28-209)~~**

(a) *Intent.* ~~The county educational reimbursement and leave policy is intended to assist its employees in their continuing educational efforts. Employees are encouraged to enhance their knowledge through educational and training experiences so that the public is served at an ever increasing level of excellence. All documentation of completed courses of study shall be forwarded to the personnel department to be included in the employee's personnel file upon receipt of degree or other certification.~~

(b) *Definitions.* ~~The following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.~~

**Educational leave** ~~means leave taken to enable a permanent employee to enroll in a course of study required to maintain current employment status ( e.g. licensure or certification requirement) or which addresses training/instruction to upgrade knowledge and skills directly relating to current responsibilities.~~

**Educational reimbursement** ~~means reimbursement for educational expenses incurred in a course of study in a field which is required to maintain current status (e.g., licensure or certification requirements) or which addresses training or instruction to upgrade knowledge and skills directly relating to current responsibilities. If the county assists with funding an advanced degree, the employee will be required to enter into a contractual agreement ensuring continued employment~~



~~with the county, the duration of which will be mutually agreed upon by the department head and the employee. Any reimbursement by the county is intended to supplement and not take the place of other financial support.~~

~~(c) Approval of educational leave by county manager. When an employee pursues a course of study which requires the employee's continued absence from the workplace (e.g., a full semester or quarter), approval for such leave shall be made by the county manager with a recommendation from the personnel director.~~

~~(d) Educational leave with pay. Educational leave with pay may be granted as follows:~~

~~(1) All educational leave must be approved by the department head prior to enrollment in the course.~~

~~(2) Leave with pay may not exceed actual time for classroom instruction in one course (the term "one course" is defined as a course with a maximum credit of five semester hours or the equivalent) during the semester or quarter of instruction and a reasonable amount of time for travel to and from the institution and the place of employment. The department head shall determine what is a "reasonable" amount of travel time, and whether the institution is located within a distance that could be reached in a reasonable amount of time off.~~

~~(3) A permanent employee on such leave shall continue to earn benefits to which permanent employees are entitled.~~

~~(4) Reasonable efforts must be made by the student/employee to schedule required courses outside the normal workday.~~

~~(5) No compensatory time or overtime pay shall be given for course work undertaken after the normal workday.~~

~~(e) Educational reimbursement. Procedures for educational reimbursement are as follows:~~

~~(1) The department head has the authority to approve all courses requested for reimbursement based upon appropriate documentation.~~

~~(2) Upon the successful completion of a county-approved course as outlined in subsection (d), the county may pay the costs of tuition, additional course fees, books or other course materials incurred by the employee.~~

~~(3) If the employee fails to maintain a "C" average in the course, he or she will be required to bear all costs, and to reimburse county for any money paid.~~

~~(4) Any request for reimbursement of costs must be approved by the department head in advance.~~

~~(Code 1995, § 270.138.1)~~

## **Sec. 28-161 205. Holidays.**

The County provides eleven paid holidays as a benefit to its county employees.

(a) *Paid holidays observed.* The following paid holidays and such others as the board of commissioners may designate shall be observed by county offices:

(1) New Year's Day.

(2) Martin Luther King, Jr.'s Birthday.

(3) Good Friday Memorial Day.

(4) Memorial Day Good Friday.

(5) Independence Day Fourth of July.

(6) Labor Day.

(7) Thanksgiving Day and Thanksgiving Friday.

(8) Christmas Day, according to the following schedule:

<b>When Christmas Falls On:</b>	<b>County Employee's Observe: These Days:</b>	
Sunday	December 22, 23 and 26	Thursday, Friday, Monday
Monday	December 25, 26 and 27	Monday, Tuesday, Wednesday
Tuesday	December 24, 25 and 26	Monday, Tuesday, Wednesday
Wednesday	December 24, 25 and 26	Tuesday, Wednesday, Thursday
Thursday	December 24, 25 and 26	Wednesday, Thursday, Friday
Friday	December 24, 25 and 28	Thursday, Friday, Monday
Saturday	December 23, 24 and 27	Thursday, Friday, Monday

All salaried employees occupying officially budgeted positions with benefits shall receive these holidays with pay providing the employee is on active pay status the scheduled working day before and the scheduled working day after the holiday period. If an employee is retiring, and the day after is the first day of retirement, the retiring employee will be paid the holiday.

Permanent employees working less than 40 hours per week receive pay for holidays on a pro rata basis.

(b) *Observance of weekend holidays*

If a holiday falls on Saturday, the holiday will be observed on Friday. If the holiday falls on or Sunday, the following Monday will be observed as the holiday. ~~except~~ If in the discretion of the county manager, the county's best interest will be served by observing the holiday otherwise, an announcement will be made at the beginning of the calendar year. on the Friday before.

(c) ~~Other religious~~ faith-based holidays. Employees may wish to be away from work on certain days for faith based religious observances. Department heads should attempt to arrange the work schedule so that an employee may be granted annual leave when it is requested because the day is a faith based major religious observance for that employee. Annual leave should be denied only when granting such leave would adversely affect services.

(d) *Floating holidays.* Floating holidays may be granted as follows:

(1) ~~Some Employees~~ who do not work regular 40-hour, Monday through Friday schedules, ~~whose and who have with~~ work patterns that prevent them from taking regularly scheduled holidays, are provided eleven (11) holidays on an hour-for-hour basis annually at the beginning of the fiscal year. Holiday time will be prorated for employees whose employment begins after the first of the fiscal year or who separate before the end of the fiscal year.

(2) Department heads shall designate those ~~classes of~~ employees to whom floating holidays shall apply. The department head is responsible for notifying personnel department which employees will receive floating holidays.

(3) Requests to take floating holidays shall be pre-approved in the sole discretion of the department head.

(4) Law enforcement employees and Communication Center employees are provided 88 holiday hours annually, which are designated at the beginning of the fiscal year. Holiday time will be prorated for employees whose employment begins after the first of the fiscal year or who separate before the end of the fiscal year.

(5) Employees with floating holidays who separate from employment with the county will be paid for any unused portion of prorated holiday time. If an employee has used more holiday time than the prorated amount, then the employee's final paycheck will be reduced proportionately.

(6) All unused floating holiday hours shall automatically transfer to sick leave at the end of the fiscal year.

(e) *Emergency Medical Services Holidays.* Employees who are required to work 12-hour shifts shall receive compensation for 88 hours of holiday time at straight time irrespective of whether the employee actually worked the holiday. Compensation will be paid in the pay period month in which the holiday time occurs. Holiday time will not be paid in advance and is subject to all deductions from salary and wages.

(Code 1995, § 270.139)

#### **Sec. 28-162. Other benefit programs.—(moved to Sec. 28-211)**

~~(a) The county offers a number of benefits designed to allow employees to meet their own health and welfare needs as well as those of their families. The county offers a number of benefits designed to allow employees to meet their own health and welfare needs as well as those of their families. And to plan for their future. A number of approved payroll deduction plans are also available which provide the employee with more available income and an enhanced ability to save toward retirement. Each employee is encouraged to make responsible decisions regarding present needs and future financial stability.~~

~~It is in the discretion of the county to determine whether to allow the addition of a benefit or service and to provide for payroll deduction. Each employee is encouraged to make responsible decisions regarding present needs and future retirement stability.~~

~~(b) It is in the discretion of the county to determine whether to allow the addition of a benefit or service and to provide for payroll deduction. In determining whether to allow for a payroll deduction, the following factors may be considered in total or combination: in total or combination:~~

~~(1) The pThe past performance, financial responsibility and reputation of the organization requesting or receiving or receiving such deduction.~~

~~(2) Whether or not the or not the administration of the program would prove to be unduly burdensome to the county.~~

~~(3) Whether a sufficient number of employees are interested, which would be representative of all the agencies of the county., which would be representative of all the agencies of the~~

~~(c) The personnel department shall maintain a current index and description of all benefits provided to employees under this article. Copies shall be provided to all new employees subject to this article, subject to this sub-chapter, and updates shall be provided annually at the time of benefits enrollment.~~

(Code 1995, § 270.140)

#### **Sec. 28-164206. Retirement.**

(a) All Eligible employees are required to join the North Carolina Local Governmental Employees' Retirement System as a condition of employment. All eligible employees shall ~~participate in social security coverage as provided by title II of the federal social security act as amended. as provided by title II of the Federal Social Security Act as amended. All exclusions contemplated by the Act shall be provided to elective governing officials who are not required to devote a major portion of their time to the duties of their office.~~

(b) There shall be no mandatory retirement age imposed on employees except in positions where a bona fide occupational qualification exists in compliance with the Age Discrimination in Employment Act Amendment, 29 USC 621-634.

(Code 1995, § 270.141)

**Sec. 28-163 207. Law enforcement officers' additional benefits.**

As mandated by G.S. 128-21 (11b) and 143 166.42. (t) The county participates by special contribution in in the Law Enforcement Officers Supplemental Retirement Income Plan-401(k) and provides for a special separation allowance for law enforcement officers. as prescribed by G.S. 128-21(11b) and 143-166.42. In the event the requirements of either statute changes, the County reserves the right to change the benefit accordingly.

(Code 1995, § 270.140.1)

**Sec. 28-165 208. Longevity award.**

(a) *Eligibility.* The county longevity pay plan is intended to reward eligible employees under this article for faithful service on an annual basis.

(b) *Exceptions.* An employee will not be eligible to receive a longevity award when:

- (1) The employee separates from the county prior to the anniversary date.
- (2) An anniversary date occurs during a period of disability. ~~of disability~~ A A longevity award will not be made until the employee returns to work - with the county.
- (3) An anniversary date occurs during a period of leave without pay. A A longevity award will not be made until the employee returns to work - with the county.

(c) *Distributions.* Longevity pay distributions shall be made in accordance with the following:

- (1) Longevity pay shall be made in a lump sum and is income for purposes of taxation. Longevity pay is not considered a part of annual base pay for classification and other pay purposes, but overtime for the past twelve (12) months is considered in the payment of longevity.
- (2) Longevity pay is awarded upon an employee's fifth anniversary and every year thereafter. Eligible prior service to the County counts towards meeting the fifth year requirement.
- (3) Longevity pay shall be distributed in accordance with the following schedule in the month the anniversary date occurs.

<b>Years of Service</b>	<b>Longevity Pay Rate (% of annual salary)</b>	<b>Years of Service</b>	<b>Longevity Pay Rate (% of annual salary)</b>
5	2.5	18	3.8
6	2.6	19	3.9
7	2.7	20	4.0
8	2.8	21	4.1
9	2.9	22	4.2
10	3.0	23	4.3
11	3.1	24	4.4
12	3.2	25	4.5
13	3.3	26	4.6
14	3.4	27	4.7
15	3.5	28	4.8
16	3.6	29	4.9
17	3.7	30 and over	5.0

(Code 1995, § 270.142)

**Sec. 28-160 209. Employee education.**

(a) *Intent.* The county educational reimbursement and leave policy is intended to assist its employees in their continuing educational efforts. Employees are encouraged to enhance their knowledge through educational and training experiences so that the public is served at an ever increasing level of excellence. All documentation of completed courses of study shall be forwarded to the personnel department to be included in the

employee's personnel file upon receipt of degree or other certification. All educational leave must be approved by the department head prior to enrollment in a course.

(b) *Definitions.* The following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

**Educational leave** means leave taken to enable a permanent employee to enroll in a course of study required to maintain current employment status ( e.g. licensure or certification requirement) or which addresses training/instruction to upgrade knowledge and skills directly relating to current responsibilities.

**Educational reimbursement** means reimbursement for educational expenses incurred in a course of study in a field which is required to maintain current status (e.g., licensure or certification requirements) or which addresses training or instruction to upgrade knowledge and skills directly relating to current responsibilities. If the county assists with funding an advanced degree, the employee will be required to enter into a contractual agreement ensuring continued employment with the county, the duration of which will be mutually agreed upon by the department head and the employee. Any reimbursement by the county is intended to supplement and not take the place of other financial support.

(c) *Approval of educational leave by county manager.* When an employee pursues a course of study which requires the employee's continued absence from the workplace (e.g., a full semester or quarter), approval for such leave shall be made by the county manager with a recommendation from the department head and personnel director.

(d) Educational leave with pay. Educational leave with pay may be granted as follows:

- (1) All educational leave must be approved ~~by the department head~~ prior to enrollment in the course.
- (2) Leave with pay may not exceed actual time for classroom instruction in one course (the term "one course" is defined as a course with a maximum credit of five semester hours or the equivalent) during the semester or quarter of instruction and a reasonable amount of time for travel to and from the institution and the place of employment. The department head shall determine what is a "reasonable" amount of travel time, and whether the institution is located within a distance that could be reached in a reasonable amount of time off.
- (3) A permanent employee on such leave shall continue to earn benefits to which permanent employees are entitled.
- (4) Reasonable efforts must be made by the student/employee to schedule required courses outside the normal workday.
- (5) No compensatory time or overtime pay shall be given for course work undertaken after the normal workday.

(e) *Educational reimbursement.* Procedures for educational reimbursement are as follows:

- (1) The department head has the authority to approve all courses requested for reimbursement based upon appropriate documentation.
- (2) Upon the successful completion of a county-approved course as outlined in subsection (d), the county may pay the costs of tuition, additional course fees, books or other course materials incurred by the employee.
- (3) If the employee fails to maintain a "C" average in the course, he or she will be required to bear all costs, and to reimburse county for any money paid. The county will not provide any reimbursement for audited classes.
- (4) Any request for reimbursement of costs must be approved by the department head in advance.

(Code 1995, § 270.138.1)

## **Sec. 28-162210. Benefits for difficult to recruit positions.**

When recruitment or retention difficulties exist, the county manager is authorized to negotiate, within federal and state law, special provisions for vacation and longevity pay benefits.

## **Sec. 28-163 211. Other benefit programs.**

(a) The county offers a number of benefits designed to allow employees to meet their own health and welfare needs as well as those of their families. ~~The county offers a number of benefits designed to allow employees to meet their own health and welfare needs as well as those of their families. And to plan for their future.~~ A number of approved payroll deduction plans are also available which provide the employee ~~with more available income~~ with additional insurance, health and wellness benefits. and an enhanced ability to save toward retirement. ~~Each employee is encouraged to make responsible decisions regarding present needs and future financial stability.~~  
~~It is in the discretion of the county to determine whether to allow the addition of a benefit or service and to provide for payroll deduction.~~ Each employee is encouraged to make responsible decisions regarding present needs and future retirement stability.

(b) It is in the discretion of the county to determine whether to allow the addition of a benefit or service and to provide for payroll deduction. In determining whether to allow ~~for~~ a payroll deduction, the following factors may be considered in total or combination: ~~in total or combination:~~

- (1) The ~~p~~The past performance, financial responsibility and reputation of the organization requesting or receiving or ~~receiving~~ such deduction.
- (2) Whether ~~or not the~~ or not the administration of the program would prove to be unduly burdensome to the county.
- (3) Whether a sufficient number of employees are interested, ~~which would be representative of all the agencies of the county, which would be representative of all the agencies of the~~

(c) The personnel department shall maintain a current index and description of all benefits provided to employees under this article. Copies shall be provided to all ~~new~~ employees subject to this article, ~~subject to this sub-chapter~~, and updates shall be provided annually at the time of benefits enrollment. (Code 1995, § 270.140)

**Sec. 28-6212. County defense of employees.**

- (a) The following works, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

*Officer and employee* mean present or past members of the board, officers, or employees and present or past appointed members of county boards, agencies, committees and commissions who might have claims or judgments entered against them.

(b) It shall be the policy of the county to defend its officers and employees acting in good faith within the scope of employment or duties against civil claims or judgments and to satisfy such either through the purchase of insurance or otherwise. Further, the county will not defend a claim or lawsuit or pay a claim or judgment when the officer or employee willfully:

- (1) Acts or fails to act because of ~~actual~~ fraud, corruption or actual malice.
- (2) Acts or fails to act as a result of or at a time when his self-indulgence substantially impairs his judgment (as, for example, an officer or employee who causes damage or injury while intoxicated or under the influence of drugs while on the job or participating in one's public capacity).
- (3) Acts or fails to act, except in emergencies or the existence of extenuating circumstances, directly contrary to instruction from his supervisor or directly contrary to advice of the county attorney.
- (4) Acts or fails to act in such manner as to constitute a criminal act (as for example, misappropriation of property or funds).

(c) The county manager shall determine whether a claim or suit filed against an officer or employee meets the requirements specified in this section for providing a defense for such officer or employee. ~~If the county manager determines that a claim or suit does not meet the requirements specified in this section, the affected officer or employee may appeal such determination to the board of commissioners. The board shall afford the officer or employee a hearing on the matter and shall decide whether the claim or suit meets the requirements of this section.~~

(d) The policies specified in this section shall not be applicable unless notice of the claim of suit is given to the board of commissioners through the county manager or county attorney prior to the time the claim is settled or civil suit is litigated and judgment is entered.

(e) This section shall not be interpreted in any way to relieve an insurance company of its obligations under any insurance policy to protect the interests of any insured under the policy or to reduce or eliminate the rights of any officer or employee of the county against any other party. Except as expressly stated, this section is not to be interpreted as a waiver of any right or defenses the county has or may have against any party; nor shall the adoption of this section be construed to waive the defense of governmental immunity.

(Code 1995, §270.006)

**Sec. 28-72213. Safe workplace policy.**

~~County government~~ Catawba County government is committed to making reasonable efforts to provide a safe working environment for its employees. It is expected that all county employees will adhere to this policy.

**Sec. 28-214. Workplace violence.**

The county has a zero-tolerance policy relating to the communication of threats, verbal harassment, physical assaults, or other forms of inappropriate behavior or unreasonably aggressive inappropriate behavior will not be condoned. ~~which will not be condoned This Such kind of behavior is considered a conduct issue. Employees exhibiting such behavior will be subject to the disciplinary process.~~ Employees found in violation will be subject to appropriate discipline as provided for in articles I through VIII of this chapter. ~~Other p as provided for in this chapter. Other~~



~~Persons found violating this policy may, at the discretion of the department head, and personnel director, be reported to the appropriate law enforcement authorities for criminal prosecution.~~  
(Code 1995, § 270.007)

**Sec. 28-273-215. Safety, including occupational safety and health act.**

~~It is the policy of the to comply in all respects with the 1970 Occupational Safety and Health Act (OSHA). The county manager shall establish policies and procedures relative to compliance with OSHA. The County is committed to providing a workplace and environment that is as safe as practicable possible for employees and the public. The safety of employees and the public is critical; however, there are some circumstances beyond and outside the control of the county where the work may be hazardous. The county attempts to provide safety and personal protective equipment but ultimately the good judgment of the employees and an awareness of dangerous conditions is the best protection.~~

~~Policies. It is the policy of the county to comply in all respects with the 1970 Occupational Safety and Health Act (OSHA). The County Manager shall establish policies and procedures relative to compliance with OSHA. Additionally, departments may adopt specific policies and procedures that enhance safety of employees, clients and the public.~~

~~Employees Obligation. Employees are required to comply with all safety rules and regulations at all times. Personal protective and safety equipment shall be used at all times. Employees who do not comply with these requirements are subject to disciplinary action.~~

~~Supervisors Responsibility. Supervisors who fail to enforce safety rules and equipment use shall be subject to disciplinary action. , which may include dismissal, for any failure to comply with safety policies and training.~~

(Code 1995, § 270.194)

**Sec. 28-274-216. Accidents involving county equipment.**

~~Accidents involving the use of the use of county equipment or occurring on county property, whether or not they they result in injury, shall be reported to the employee's immediate supervisor no later than the end of the work shift. the same workday. If the supervisor is absent the employee shall call the next supervisor in the chain of command, or the personnel department.~~ The employee and supervisor shall follow county policies and procedures for the reporting of accidents.

~~Vehicles. Employees involved in a vehicle accident while operating a county vehicle are required to contact the appropriate law enforcement agency.~~

(Code 1995, § 270.195)

**Sec. 28-275 217. Reporting accidents and injuries.**

(a) A county employee who is injured in the performance of assigned duties shall immediately report the accident accident to his immediate supervisor and the Personnel Department.

(b) The supervisor shall be responsible for ensuring an injury report is completed and submitted to the Personnel department within one business day seven days of a reported injury.

~~(C) State statutes require all accident reports to be filed within five days after knowledge of the accident of a reported injury.~~

(c) State statutes require all accident reports to be filed within five days after knowledge of the accident.

(Code 1995, § 270.196)

**Sec. 28-163. Law enforcement officers additional benefits . (moved to 28-207)**

~~The county participates by special contribution in the Law Enforcement Officers Supplemental Retirement Income Plan 401(k) and provides for a special separation allowance for law enforcement officers as prescribed by G.S. §§ 128-21(11b) and 143-166.42.~~

(Code 1995, § 270.140.1)

**Sec. 28-164. Retirement . (moved to 28-206)**

~~(a) All employees join the North Carolina Local Governmental Employees' Retirement System as a condition of employment. All eligible employees shall participate in social security coverage as provided by title II of the Federal Social Security Act as amended. All exclusions contemplated by the Act shall be provided to elective governing officials who are not required to devote a major portion of their time to the duties of their office.~~

~~(b) There shall be no mandatory retirement age imposed on employees except in positions where a bona fide occupational qualification exists in compliance with the Age Discrimination in Employment Act Amendment, 29 USC 621—634.~~

(Code 1995, § 270.141)

**Sec. 28-165. Longevity award. (moved to 28-208)**

~~(a) Eligibility. The county longevity pay plan is intended to reward eligible employees under this article for faithful service on an annual basis.~~

~~(b) Exceptions. An employee will not be eligible to receive a longevity award when:~~

- ~~(1) The employee separates from the county prior to the anniversary date.~~
- ~~(2) An anniversary date occurs during a period of disability. A A longevity award will not be made until the employee returns to work.~~
- ~~(3) An anniversary date occurs during a period of leave without pay. A A longevity award will not be made until the employee returns to work.~~

~~(c) Distributions. Longevity pay distributions shall be made in accordance with the following:~~

- ~~(1) Longevity pay shall be made in a lump sum and is income for purposes of taxation. Longevity pay is not considered a part of annual base pay for classification and other pay purposes.~~
- ~~(2) Longevity pay is awarded upon an employee's fifth anniversary and every year thereafter.~~
- ~~(3) Longevity pay shall be distributed in accordance with the following schedule in the month the anniversary date occurs.~~

<del>Years of</del> <del>Service</del>	<del>Longevity Pay Rate</del> <del>(% of annual salary)</del>	<del>Years of</del> <del>Service</del>	<del>Longevity Pay Rate</del> <del>(% of annual salary)</del>
<del>5</del>	<del>2.5</del>	<del>18</del>	<del>3.8</del>
<del>6</del>	<del>2.6</del>	<del>19</del>	<del>3.9</del>
<del>7</del>	<del>2.7</del>	<del>20</del>	<del>4.0</del>
<del>8</del>	<del>2.8</del>	<del>21</del>	<del>4.1</del>
<del>9</del>	<del>2.9</del>	<del>22</del>	<del>4.2</del>
<del>10</del>	<del>3.0</del>	<del>23</del>	<del>4.3</del>
<del>11</del>	<del>3.1</del>	<del>24</del>	<del>4.4</del>
<del>12</del>	<del>3.2</del>	<del>25</del>	<del>4.5</del>
<del>13</del>	<del>3.3</del>	<del>26</del>	<del>4.6</del>
<del>14</del>	<del>3.4</del>	<del>27</del>	<del>4.7</del>
<del>15</del>	<del>3.5</del>	<del>28</del>	<del>4.8</del>
<del>16</del>	<del>3.6</del>	<del>29</del>	<del>4.9</del>
<del>17</del>	<del>3.7</del>	<del>30 and over</del>	<del>5.0</del>

~~(Code 1995, § 270.142)~~

**~~Sec. 28-166. Employee recognition. (deleted)~~**

~~The board of commissioners shall from time to time recognize the achievement, accomplishments and contributions of its employees and commend their activities to the community and organization through its official action.~~

~~(Code 1995, § 270.143)~~

**~~Sec. 28-167~~ **218. Merit awards.****

(A) Merit award funds may shall be designated by the board of commissioners through the annual budget process and shall be allocated to all departments in a manner described by the county manager. Only employees in permanent, budgeted positions working a minimum of twenty (20) hours per week are eligible to receive merit awards.

(b) Eligible employees may be granted lump sum merit awards for meritorious performance. Merit awards may be granted to employees whose salary falls anywhere within the assigned salary range under the following conditions:

- (1) Lump sum merit awards may be given at any time during the fiscal year and should follow incidents or periods of exceptional or outstanding job performance.
- (2) Lump sum merit awards may be granted in any monetary increment provided that the total amount does not exceed seven (7%) percent of the employee's salary in any one fiscal year.

(c) Merit awards shall be initiated at the departmental level upon recommendation of the department head. Such recommendations shall be accompanied by an explicit written justification setting forth the specific meritorious performance rewarded.

~~(Code 1995, § 270.144)~~

**~~Sec. 28-168. Self-insurance fund. (deleted)~~**

~~The county self-insurance fund established April 3, 1978, shall be designated a general insurance reserve from claims and liabilities not covered by commercial carriers.~~

~~(Code 1995, § 270.145)~~

~~(Editor's Note: On September 8, 1987, the Board of Commissioners adopted a self-insured short-term disability plan. The original text of the plan may be found in the minutes of September 8, 1987, and subsequent amendments shall be located in the personnel department.)~~



Sec. 28-169 ~~219~~— 28-195 ~~243~~. Reserved.

## **ARTICLE VI. PERSONNEL RECORDS AND REPORTS**

**(this article moved to Article IX)**

**Sec. 28-196. Personnel records; access to public record; privacy act. ~~(moved to Sec. 28-304)~~**

~~(a) Personnel records are necessary for the proper administration of the county personnel system and will be maintained by the personnel director. The county shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs. It is the responsibility of the personnel director to assure the sanctity and authenticity of every employee's personnel file.~~

~~(b) As required by G.S. 153A-98 and 160A-168, any person may have access to public information as defined by this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the county may adopt. Any person denied access to any record shall have a right to compel compliance with this subsection by application to a court for writ of mandamus or other appropriate relief.~~

~~(c) For purposes of this article, an employee's personnel file consists of any information of any form gathered by the county with respect to that employee. This would include, but would not be limited to information relating to an employee's application, selection or non-selection for a vacant position, performance, promotions, demotion, transfers, suspension, and other disciplinary actions, evaluation forms, leave, salary and termination of employment.~~

~~(Code 1995, § 270.159)~~

**Sec. 28-197. Public and confidential information defined. ~~(moved to Sec. 28-305)~~**

~~(a) The following information regarding each county employee is public information:~~

- ~~(1) Name.~~
- ~~(2) Age.~~
- ~~(3) Date of original employment or appointment to county services.~~
- ~~(4) Current position/title.~~
- ~~(5) Current salary.~~
- ~~(6) Date and amount of most recent change in salary.~~
- ~~(7) Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification.~~
- ~~(8) Office to which the employee is currently assigned.~~

~~(b) All information contained in a county employee's personnel file, other than the information listed in subsection (a) of this section, will be maintained as confidential in accordance with the requirements of G.S. 160A-168 and shall be open to public inspection only for the following:~~

- ~~(1) The employee or a duly authorized agent may examine all portions of the employee's personnel file, except:
  - ~~(a) Letters of reference solicited prior to employment; and~~
  - ~~(b) Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient.~~~~
- ~~(2) A licensed physician designated in writing by an employee may examine the employee's medical record..~~
- ~~(3) A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.~~
- ~~(4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.~~
- ~~(5) An official of any agency of the state or federal government or any political subdivision of the state may inspect any portion of a personnel file when such information is deemed by the person having custody of the file to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.~~
- ~~(6) An employee may sign a written notarized statement authorizing release of other specified information to prospective employers, educational institutions, or other specified persons.~~
- ~~(7) The county manager, with the concurrence of the board of commissioners, may inform any persons of the employment or nonemployment; promotion, demotion, suspension, or other disciplinary action; reinstatement; transfer; or termination of a county employee and the reasons for that personnel action. Before releasing the information, the manager shall determine in writing that the release is essential to maintaining public confidence in the administration of county services or to maintaining the level of quality county services. A record shall be maintained in the personnel file and as part of the public record in the office of the clerk to the board.~~

- (8) ~~Even if considered part of an employee's file, the following information may be withheld from an employee:~~
- ~~(a) Testing or examination material used solely to determine qualification when disclosure would compromise testing.~~
  - ~~(b) Investigative reports concerning possible criminal actions against the employee until the investigation is completed.~~
  - ~~(c) Information which might identify undercover officers or informers.~~
  - ~~(d) Notes, preliminary drafts, and internal communications unless used for official personnel decisions.~~

~~(Code 1995, § 270.160)~~

~~**State law reference:** *Penalty for permitting illegal access to confidential file, G.S. § 153A-98*~~

**Sec. 28-198. Designation and responsibilities of records custodian ~~(included in Sec. 28-304)~~**

~~Pursuant to section 28-4(b), the personnel records custodian shall be the personnel director, whose responsibility it is to maintain a personal file for each county employee. The Personnel director may designate an individual within the Personnel department to act as records custodian. The records custodian is responsible for the proper maintenance and documentation of personnel records procedures in accordance with state and local law.~~

~~(Code 1995, § 270.161)~~

**Sec. 28-199. Request and review procedure. ~~(moved to Sec. 28-306)~~**

~~(a) All requests for county personnel records information must be made in writing to the records custodian. An employee may sign a written letter of consent authorizing release of confidential information to prospective employers, educational institutions or other specified persons.~~

~~(b) If a request is determined by the records custodian to be for public information, the custodian shall, within five working days, provide such public information.~~

~~(c) Only individuals contemplated by G.S. 153A-98 as set forth in section 28-197 shall have standing to receive confidential personnel information. Such requests shall be made in writing by the individual having standing and shall be made on a standard county disclosure of confidential information form, such form to contain the signature of the requesting party. The requesting party shall not disclose such confidential information. The custodian shall, within five working days, provide access to such information.~~

~~(Code 1995, § 270.163)~~

**Sec. 28-200. Remedies and objections. ~~(moved to Sec. 28-307)~~**

~~A county employee who objects to material in a personnel file may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with the following procedure:~~

~~(1) A written request containing the employee's name and identifying the objectionable material with any supporting documentation shall be submitted to the records custodian.~~

~~(2) The records custodian shall notify the county manager and the appropriate supervisory personnel of the nature of the complaint and shall within five working days, make a determination regarding the disposition of the complaint.~~

~~(a) If the complaint is found to be valid, the material shall either be corrected and returned to the file or removed from the file and destroyed.~~

~~(b) If the complaint is found to be invalid, the material shall remain in the personnel file, and a copy of the employee's written objection shall be placed in the personnel file.~~

~~(Code 1995, § 270.164)~~

**Sec. 28-201. Destruction of records. ~~(moved to Sec. 28-308)~~**

~~No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5(B), without the consent of the state department of cultural resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it, will be guilty of a misdemeanor, and upon conviction, will be fined not less than \$10 or more than \$500, as provided in G.S. 132-3.~~

~~(Code 1995, § 270.165)~~

**~~Secs. 28-202—28-230. Reserved.~~**

**ARTICLE VII. CONFLICT OF INTEREST AND POLITICAL ACTIVITIES**

**Sec. 28-231 ~~244~~. Applicability.**

This article shall be applicable to all county employees subject to this chapter ~~subject to this chapter~~ and, where applicable, to the county's public officials.  
(Code 1995, § 270.170)

**Sec. 28-232 245. Political activity restricted.**

a. As noted in G.S. 153A-98, the purpose of this section is to ensure that county employees are not subject to political or partisan coercion while performing their job duties, to ensure that employees are not restricted from political activities while off duty, and to ensure that public funds are not used for political or partisan activities.

It is not the purpose of this section to allow infringement upon the rights of employees to engage in free speech and free association. Every county employee has a civic responsibility to support good government by every available means and in every appropriate manner. Employees shall not be restricted from affiliating with civic organizations of a partisan or political nature, nor shall employees, while off duty, be restricted from attending political meetings, or advocating and supporting the principles or policies of civic or political organizations, or supporting partisan or nonpartisan candidates of their choice in accordance with the Constitution and laws of the State and the Constitution and laws of the United States of America.

b. The following is the policy of the County:

(a) Political activity by an employee during working hours, while in service to ~~of~~ the county, or within ~~of~~ the scope of county employment, is strictly prohibited.

(b) The use of county supplies, equipment, communications equipment, including Internet and email, is strictly prohibited. ~~Likewise,~~

(c) ~~C~~county employees are protected from political interference in performing the duties of their job.

(d) No employee while on duty or in the workplace may

1. Use his official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for political office; or

2. Coerce, solicit, or compel contributions for political or partisan purposes by another employee.

3. No employee may be required as a duty or condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes.

~~(a) County employees may engage in political activities away from work and outside of working hours in accordance with state and federal laws. Political activity by an employee during working hours or while in the service of the county and use of county supplies and equipment for political purposes is strictly prohibited.~~

~~(b) Employees shall not coerce or compel or compel contributions for political or partisan purposes.~~

~~(c) Employees shall not use or give the impression of using official authority or influence for purposes of interfering with or affecting the result of an election or nomination of office.~~

(Code 1995, § 270.171)

c. Employees as candidates for office. To become a candidate means that an employee has taken some formal or public action that may lead to being elected or appointed to a political office. It means the employee is seeking political office and for purposes of this ordinance, an employee will be recognized as becoming a candidate when

(a) the employee forms any kind of fundraising committee or campaign committee, or

(b) ~~(b) when~~ the employee announces through the media or mail that the employee intends to become a candidate, or

(c) ~~(c) when~~ the employee files an official document, such as a notice of candidacy, with any Board of Elections, or

(d) ~~d) when~~ anyone else does any of the acts described above on the employee's behalf or starts a write-in campaign for the employee and the employee refuses to disavow such act or otherwise make the employee's intentions clearly known through an appropriate public announcement.

Employees are required to notify their department head ~~when~~ prior to such events ~~take~~ taking place.

~~County Commission. Being a member of the board of commissioners and a county employee is inherently in conflict with being an employee with the county. It is divisive and may destroy the public trust between the existing commissioners and county management. It can disrupt the workplace. Therefore, on the day the an employee becomes a candidate for county commissioner, said the employee will take a leave of absence. effective immediately~~

**Sec. 28-233. Confidential information. (moved to Sec. 28-303)**

(a) No county employee or official shall use or disclose information gained in the course of employment or by reason of position for purposes of advancing a financial or personal interest, a business entity in which there is an ownership interest, a financial or personal interest of a household member or a family member, as defined in section 28-154(b), or any other private or political interest to the detriment of the county.

~~(b) No employee or official shall disclose confidential or privileged information concerning personnel matters, property, contract negotiations, litigation related matters, or other affairs of the county which are afforded protection under state law.~~

~~(Code 1995, § 270.172)~~

**Sec. 28-234 246. Gifts and favors.**

(a) Receiving or giving of gifts or favors is not in the best interest of the county. Therefore, no county employees shall:

(1) Accept any gift, favor, or thing of value that may tend to influence them in the discharge of their duties.

~~(Accept any gift from a vendor proposing or submitting information in order to conduct business with the county.~~

2) Grant, in the discharge of their duty, any improper favor, service or thing of value.

(b) The following gifts are considered acceptable under GS 132-32 and are the only exceptions:

(1) Honorariums for participating in meetings.

(2) Advertising items or souvenirs of nominal value.

(3) Meals furnished at banquets.

(4) Contractor donations to professional organizations to which local government officials and employees may belong, including participation in all scheduled functions of such an organization.

(5) Customary gifts from friends and family members, as long as the family or friendship relationship, not the desire to do business with the local government, is the motivating factor for the gift.

(c) Legitimate political contributions to candidates for elected office shall not be considered as gifts. Gifts to a department or the county are acceptable if shared within the organization and if deemed appropriate by the county manager. Such gifts are considered the property of the county. A nominal gift to an employee from a nonvendor in recognition for a service well done is acceptable if deemed appropriate by the county manager.

(d) No county employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

(Code 1995, § 270.173)

**Sec. 28-235 247. Duty to disclose.**

Any county employee having knowledge of or a reason to know of a potential personal interest or upon the discovery of a potential personal interest, has an affirmative duty to disclose such personal interest to the department head. ~~County manager~~. Any attempts by any person, firm or corporation to influence the decision of a county employee with regard to county business must be reported to the county manager.

(Code 1995, § 270.174)

**~~Sec. 28-236. Conflicting employment.~~ (included in Secs. 28-168 and 28-246)**

~~No county employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties, unless otherwise permitted by law and unless disclosure is made pursuant to section 28-235.~~

~~(Code 1995, § 270.175)~~

**Sec. 28-237 248. Violations.**

Any violation of this article shall subject an employee to disciplinary action.

(Code 1995, § 270.176)

**~~Sec. 28-266. Privacy act.~~ (included in Sec. 28-304)**

~~As required by G.S. 153A-98 and 160A-168, any person may have access to public information as defined by this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the county may adopt. Any person denied access to any record shall have a right to compel compliance with this article by application to a court for writ of mandamus or other appropriate relief.~~

~~(Code 1995, § 270.180)~~

**~~Sec. 28-267 Employment policy against workplace harassment~~ (moved to Sec. 28-275)**

~~(a) The county does not tolerate any form of workplace harassment, including harassment defined as sexual, race, creed, religion, national origin, age, color, or handicapping condition. No employee, regardless of position, may engage in conduct that falls under the definition of unlawful workplace harassment. No employee, regardless of position, may engage in conduct that falls under the definition of unlawful workplace harassment, including, but not limited to, sexual harassment. This is generally defined as unwelcome or unsolicited comments or conduct based~~

~~upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by G.S. 168A-3 based upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by the Equal Employment Opportunity Commission and G.S. 168A-3 that creates a hostile work environment or circumstances involving circumstances involving quid pro quo situation. All employees have the expectation to of working in an environment free from unlawful workplace harassment and retaliation. Indifference by supervisors and other employees with authority will not be condoned either. either. All complaints made by employees will be investigated, and appropriate remedial or disciplinary action up to and including dismissal will be taken on complaints that are substantiated.~~

~~Reporting a complaint of any kind is Reporting a complaint of any kind is difficult, since complaints generally involve a supervisor or coworker. However, However, an employee who believes that he may have a complaint of harassment may have a complaint of harassment is advised to file the the complaint directly with the personnel director. Any department director director or supervisor who receives a complaint of harassment shall report the matter to the personnel director immediately. Complaints will be investigated by the personnel director, or, when an absence occurs or when a conflict exists, in cases of absence or when a conflict exists, a designee.~~

~~(B)(c) Employees who allege unlawful workplace harassment must, within 30 calendar days of the alleged harassing action, submit a written complaint to the personnel director so a thorough investigation can be conducted and appropriate action taken. so a thorough investigation can be conducted and appropriate action taken.~~

~~(C)(d) Confidentiality and the dignity of those involved in a complaint is important. Considering the sensitive nature of harassment complaints, every effort will be made to keep the complaint and the name of the employee confidential and on a need-to-know basis. However, due to the nature of conducting an investigation, confidentiality cannot be guaranteed. Reports, including the final report, will be distributed only to persons having a need or right to know. Employees involved in any investigation, whether as complainant or alleged harasser, witness or investigator, should keep all discussions or communications confidential.~~

~~(D)(e) The County has 60 days to take remedial action, if any, in response to a complaint. Otherwise Otherwise ecomplainants in mental health, public health, or social services have the right to appeal directly to the office of administrative hearings and the state personnel commission. Complainants in other departments may appeal directly to the county manager through the county grievance procedure as set forth in this section.section.~~

~~(E)(f) Investigation files shall remain separate and apart from personnel files. Neither the claimant nor the alleged harasser have a right to the contents of the these files. Any personnel action, such as discipline, resulting from an investigation, shall be filed in the employee's personnel file. The contents of these files are protected according to section 28-196 of this Codeaccording §270.159 of the Personnel Code.~~

~~(F)(g) In furtherance of this policy, the In furtherance of this policy, the county prohibits any retaliatory action of any kind taken by an employee of the county against any other employee because that person made charges, testified, assisted or participated in any manner in a hearing, proceeding or investigation of workplace harassment or employment discrimination.~~

~~(h) GrievancesGrievances. It is the intent of the county government to provide a system of employee appeals or grievances which is substantially equivalent to the system developed and maintained by the state under G.S. 7126-1 et seq. In order to maintain harmonious and cooperative relationships between the county and its employees, it is the policy of the county to provide for the settlement of complaints through an orderly complaint procedure free from interference, discrimination, or reprisal. The complainant shall file all correspondence regarding grievances with the Personnel director. Grievances which are not received within the time allowed as prescribed in this subsection or which are not filed with the Personnel director as prescribed in this subsection shall be dismissed.~~

~~(1) Any employee or former employee who has filed a workplace harassment complaint has the right to appeal the following:~~

~~(a) Remedial actions taken by the County as a result of a workplace harassment complaint. Disciplinary actions which are a part of remedial action shall may only be grieved by the recipient of the disciplinary actions as provided for under section 28-123.~~

~~(b) Failure by the County to investigate a workplace harassment complaint and respond to the complaint within 60 calendar days.~~

~~(2) Any employee who testified, assisted or participated in any manner in a hearing, proceeding or investigation of workplace harassment or employment dscrimation has the right to appeal any retaliatory action of any kind taken by an employee of the County against them because of their participation.~~

~~(3) Active employees shall be allowed one hour from regular duties for to preparing a grievance.~~

~~(4) An employee has the right of to retain legal counsel at the expense of the employeethe expense of the employee.~~

~~(5) Advisory services pertaining to procedures are available from the County Personnel Director. Director.~~

~~(6) In order that all employees may be able to obtain further consideration of their problems, it is essential that two-way communication occur, and management shall make every effort to resolve the problem or correct the misunderstanding prior to the grievance procedure.~~



- (7) ~~An employee shall must file a written appeal within fifteen (15) calendar days after an appealable action has occurred. The employee shall attach all additional information and supporting documentations to the appeal. The notice of appeal must be received by the Personnel director by before 5:00 on the fifteenth day.~~
- (8) ~~The county manager must contact the employee within seven calendar days to set a the date, place and time for oral presentation of the grievance. Unless the employee agrees otherwise, the hearing must be held within seven calendar days from the date the employee filed the appeal with the personnel director.~~
- (9) ~~The county manager shall render a decision in writing to the employee or former employee who filed the grievance within seven days of the hearing. However, if the county mManager needs more time to obtain facts he may advise the parties involved. Such writing shall contain the employee's and the county's official statements and the county's official conclusions. The written decision shall also contain notice of further appeal rights if any.~~
- (10) ~~Once a decision is reached, the procedure is ended and the documents are filed in the personnel department.~~
- (11) ~~(12) Once a decision is reached the procedure is ended. The decision of the county manager is final, except that employees and former employees of the departments of social services, public health and mental heath who are subject to the state personnel act will have 30 days to appeal a decision of the county manager to the state personnel commission. Appeals to the state personnel commission must be filed in writing with a copy furnished to the personnel director. Employees should consult with the state personnel commission regarding the state's appeal procedures.~~
- (Code 1995, § 270.181)a

**Sec. 28-268. Mandatory retirement age. ~~(included in Sec. 28-206)~~**

~~In compliance with the Age Discrimination in Employment Act amendment (29 U.S.C. 621-634), there shall be no mandatory retirement age for county employees except in positions where bona fide occupational qualification exists.~~

(Code 1995, § 270.182.)

**Sec. 28-269. Americans with Disability Act. ~~(moved to Sec. 28-276)~~**

~~It is the policy of the county to comply with the relevant and applicable provisions of the Americans With Disability Act (ADA). The county will not discriminate against any qualified employee or applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability. The county will also make reasonable accommodations wherever necessary wherever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the duties and assignments connected with the job and provided that any accommodations made do not require significant difficulty or expense.~~

(Code 1995, § 270.183)

**Sec. 28-270. Fair labor standards act. ~~(moved to Sec. 28-155)~~**

~~It is the policy of Catawba County to comply with all the requirements of the Fair Labor Standards Act, 29 U.S.C. 201 et seq. All overtime hours remaining on an employee's leave record shall be compensated at the employee's current rate of pay upon separation. All prohibitions of retaliation and discrimination specifically set forth in 29 U.S.C. 215 will be strictly adhered to by all agents of the county, including department heads, supervisors and individuals in management.~~

(Code 1995, § 270.184)

**Sec. 28-271. Unemployment compensation. ~~(deleted)~~**

~~County employees who are separated or terminated from employment may apply for unemployment compensation through the local office of the employment security commission. Eligibility for unemployment compensation will be determined by the employment security commission based upon the facts surrounding the separation or termination.~~

(Code 1995, § 270.185)

**Sec. 28-272. Family and Medical Leave Act. ~~(moved to Sec. 28-201)~~**

(a) ~~Purpose.~~ The Family and Medical Leave Act (FMLA) of 1993 was passed by Congress to:

- ~~(1) Balance the demands of the workplace with the needs of families, promote the stability and economic security of families, and promote national interests in preserving family integrity;~~
- ~~(2) Minimize the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons, including maternity-related disability, and for compelling family reasons; and~~
- ~~(3) Promote the goal of equal employment opportunity for women and men.~~

(b) ~~Definitions.~~ The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

~~Adoption means placement of a child for purposes of legal adoption following the filing of an adoption petition.~~

~~Child means a son or daughter under 18 years of age, or one 18 or over, incapable of self-care because of a mental or physical disability, who is:~~

- ~~(1) — A biological child.~~
- ~~(2) — An adopted child.~~
- ~~(3) — A foster child.~~
- ~~(4) — A stepchild.~~
- ~~(5) — A legal ward.~~
- ~~(6) — A child of the employee standing in loco parentis.~~

~~Foster care means placement of a child as a result of state action, rather than an informal arrangement to take care of another person's child.~~

~~Health care provider means:~~

- ~~(1) — A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the state; or~~
- ~~(2) — Any other person determined by statute, credential, or licensure to be capable of providing care services.~~

~~Intermittent work schedule means a work schedule in which an employee works on an irregular basis and is taking leave in separate blocks of time, rather than for one continuous period of time, usually to accommodate some form of regularly scheduled medical treatment.~~

~~Light duty means when a treating physician certifies an employee may return to work, but is unable to perform one or more of the essential functions of the employee's position although the employee may perform other of the employee's less demanding tasks.~~

~~Loco parentis means persons who have the responsibility for the day-to-day care and financial support of a child. A biological or legal relationship is not necessary.~~

~~Parent means a biological or adoptive parent, or one who stood in loco parentis to the employee when the employee was a child. This term does not include parent-in-law.~~

~~Reduced work schedule means a work schedule involving less hours than an employee is regularly scheduled to work.~~

~~Serious health condition means an illness, injury, impairment, or physical or mental condition that involves:~~

- ~~(1) — Any period of incapacity or treatment connected with inpatient care, such as an overnight stay, in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care.~~
- ~~(2) — Continuing treatment by a health care provider which includes any period of incapacity, such as inability to work, attend school, or perform other regular daily activities, due to one or more of the following: a health condition, including treatment therefor or recovery therefrom, lasting more than three consecutive days and any subsequent treatment or period of incapacity relating to the same condition that includes:
  - ~~a. — Treatment two or more times by or under the supervision of a health care provider; or~~
  - ~~b. — Treatment by a health care provider one time with a continuing regimen of treatment;.~~~~
- ~~(3) — Pregnancy or prenatal care;.~~
- ~~(4) — Any period of incapacity or treatment due to a chronic serious health condition, even when the employee or family member does not receive treatment from a health care provider during the absence and even if the absence does not last more than three days, which is defined as one:
  - ~~a. — Requiring periodic visits or treatment by a health care provider or by a nurse or physician's assistant under the direct supervision of a health care provider;~~
  - ~~b. — Continuing over an extended period of time, including recurring episodes of a single underlying condition; and~~~~



- ~~c. Which may cause episodic rather than continuing periods of incapacity (for example, asthma, diabetes, epilepsy, and the like).~~
- ~~(5) A permanent or longterm condition from which treatment may not be effective (for example, Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment and even if the absence does not last more than three days.~~
- ~~(6) Multiple treatments from restorative surgery or incapacity for serious conditions that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment (chemotherapy, radiation, dialysis, and the like).~~

~~Note: Treatment includes but is not limited to examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Ordinarily, unless complications arise, the following are examples of conditions that do not meet the definition: common cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, cosmetic treatments, and the like. The following may meet the definition if all of the other conditions of this section are met: restorative dental or plastic surgery after an injury or removal of cancerous growths, mental illness, resulting from stress or allergies, treatment for substance abuse.~~

~~Spouse means a husband or wife as recognized by state law.~~

~~Twelve-month period means a "rolling" 12-month period measured backward for the date the employee uses any FMLA leave. Each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12-workweek entitlement which has not been used during the preceding 12 months.~~

~~Workweek means the number of hours an employee is regularly scheduled to work each week.~~

~~(c) Eligibility. Eligibility for family and medical leave is determined in accordance with the following:~~

- ~~(1) Determining eligibility. An employee's eligibility for family/medical leave shall be based on the employee's months of service and hours of work as of the date the leave is to commence.~~
- ~~(2) Eligibility criteria. Any employee, permanent, probationary, or trainee, who has worked for the county government for at least 12 months and has worked at least 1,250 hours (Vacation, sick, workers' compensation, disability, and other forms of leaves are not considered hours worked) over the previous 12 months is entitled to a total of 12 workweeks of leave, paid or unpaid, during a 12-month period for one or more of the following reasons:~~
  - ~~a. For a birth of a child and to care for the newborn child after birth, provided leave is taken within a 12-month period following birth (An expectant mother shall also take FMLA leave pursuant to subsection (c)(2)d of this section before the birth of the child for prenatal care or if her condition makes her unable to work);~~
  - ~~b. For the placement with the employee of a son or daughter for adoption or foster care, provided the leave is taken within a 12-month period following adoption (FMLA must also be granted before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed);~~
  - ~~c. For the employee to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or~~
  - ~~d. Because the employee has a serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position.~~

~~Note: Husbands and wives employed by the county are only entitled to 12 aggregate number of workweek's leave during a 12-month period where such leave is taken pursuant to subsection (c)(2)a or (c)(2)b of this section and pursuant to subsection (c)(2)c of this section if the leave requested is to care for either of the employee's parents who has a serious health condition.~~

~~(d) Leave charges. Leave shall be charged as follows:~~

- ~~(1) Periods of paid leave, periods of leave without pay, including leave without pay while drawing shortterm disability, and absences due to workers' compensation count toward the 12 workweeks to which the employee is entitled.~~
- ~~(2) When an employee returns to work on light duty, the time spent working in light duty is counted toward 12 workweeks to which the employee is entitled.~~

- (3) ~~Employees who have FLSA overtime may not be required to use this time for family medical leave; however, FLSA straight time and compensatory time if available must be exhausted before a period of leave without pay may begin.~~
- (4) ~~Employee options are as follows:~~
- a. ~~*Birth.* For the birth of a child, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay, except that sick leave shall be used only during periods of disability.~~
  - b. ~~*Adoption.* For the adoption or foster care of a child, the parents shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay.~~
  - c. ~~*Illness of child, spouse, parent.* For the illness of an employee's child, spouse, or parent, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay.~~
  - d. ~~*Employee's illness.* For the employee's illness, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay. If the illness extends beyond the 28-day waiting period required for shortterm disability, the employee begins receiving shortterm disability benefits and may elect to use the balance of paid leave to supplement shortterm disability up to 100 percent of the employee's gross salary. When an employee is absent under workers' compensation, the employee may elect to use the balance of sick leave to supplement the workers' compensation benefits up to 100 percent of the gross salary.~~
- (e) ~~*Intermittent leave or reduced work schedule.* Intermittent leave or a reduced work schedule may be granted as follows:~~
- (1) ~~Pursuant to this policy, the employee may not take leave intermittently or on a reduced work schedule for childbirth and birth-related child care or for adoption unless the employee and the department agree otherwise; however, when medically necessary, the employee may take leave intermittently or on a reduced schedule to care for the employee's child, spouse, or parent who has a serious health condition or because the employee has a serious health condition. If such leave is foreseeable, based on the planned medical treatment, the department may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave.~~
  - (2) ~~Only the time actually taken as leave shall be counted toward the 12 weeks of leave to which the employee is entitled when leave is taken intermittently or on a reduced leave schedule.~~
  - (3) ~~If an employee works a reduced or intermittent work schedule and does not have leave available to make up the difference between the normal work schedule and the new temporary schedule to bring the number of hours worked up to the regular schedule, the employee's pay status will be changed to reflect the reduction in hours scheduled resulting in a reduction in leave accrual and other benefits not subject to the Family and Medical Leave Act.~~
- (f) ~~*Light duty.* Light duty may be authorized as follows:~~
- (1) ~~*Workers' compensation.*~~
    - a. ~~If the treating physician for workers' compensation certifies the employee is able to return to a light-duty job, the employee may choose to remain out of work on FMLA leave for the remaining portion of the employee's FMLA leave period.~~
    - b. ~~As a result of declining a light-duty position, the employee may lose workers' compensation benefits under applicable state law, but is entitled to remain on FMLA leave and is required to exhaust available paid leave before a period of leave without pay may commence. At the end of the 12-week period, if the employee is unable to perform the essential functions of the original position with reasonable accommodation, the employee loses the right to be restored to that original position.~~
    - c. ~~If the employee voluntarily accepts light duty, the time the employee is on light duty is considered FMLA leave until the end of the 12-week period.~~
  - (2) ~~*Shortterm disability.* If the treating physician certifies the employee is able to return to a light-duty job, the employee will be subject to the terms of the shortterm disability plan governing return to work. If an~~

~~employee returns to work in a light-duty job, the time the employee is on light duty is considered FMLA leave until the end of the 12-week period. The short-term disability plan may offer additional protection to the employee beyond the 12-week period under FMLA.~~

~~(g) Department responsibility. The director shall ensure that notice provided by the personnel department is kept conspicuously posted where it can be seen by employees and job applicants. The director shall also ensure that written guidance is provided to all employees and supervisors.~~

~~(h) Supervisor's responsibility. Responsibilities of supervisors are as follows:~~

~~(1) Leave request. The supervisor shall determine from each employee requesting leave the reason leave is requested. If the employee fails to explain the reason that leave is required, the supervisor may deny leave. It is the responsibility of the supervisor to ensure qualifying leave is designated as family medical leave even when an employee would rather not use any of his FMLA leave entitlement. If the supervisor believes the reason for the leave may be a qualifying reason under FMLA, the supervisor shall then consult with the personnel department in determining if the employee is eligible for family medical leave on the date the leave will commence and, if eligible, in determining that the leave requested is for an FMLA qualifying reason.~~

~~(2) Notice of eligibility. The employee will receive notice from the personnel department regarding eligibility.~~

~~(3) Designation of leave as FMLA leave. Leave is designated as FMLA leave in accordance with the following:~~

~~a. If information is not sufficient to make a determination, the department shall require the employee to provide information.~~

~~b. Once a department has knowledge that the reason leave is being taken is for an FMLA-required reason, the supervisor must, within two business days absent extenuating circumstances, ensure the employee is notified that the leave is designated and will be counted as FMLA leave. The notice may be oral or in writing, but must be confirmed in writing no later than the following payday.~~

~~c. If an absence which begins as other FMLA leave later develops into an FMLA-qualifying absence, the entire leave period that qualifies under FMLA may be counted as FMLA leave. The notification requirements of subsection (g)(3)b of this section apply.~~

~~(4) Designation of FMLA leave after return to work. Procedures for designation of FMLA leave after a return to work are as follows:~~

~~a. The supervisor may not designate leave that has already been taken as FMLA leave after the employee returns to work, with two exceptions:~~

~~1. If an employee is out for a reason that qualifies for FMLA leave and the supervisor does not learn of the reason for the leave until the employee returns to work, the supervisor shall designate the leave as FMLA leave within two business days of the employee's return; or~~

~~2. If the supervisor has provisionally designated the leave under FMLA leave and is waiting receipt from the employee of required certifications.~~

~~b. Similarly, the employee is not entitled to protection of the FMLA if the employee gives notice of the reason for the leave later than two business days after returning to work.~~

~~(i) Employee responsibility. The employee shall give notice of the need for leave under this policy and pursuant to the sections of this chapter that address the use of paid leave. The employee must explain the reasons for the needed leave to allow the department to determine that the leave qualifies under the act.~~

~~(1) Birth, adoption, or foster care. An employee must give 30 days' written advance notice to the supervisor of the need to take family medical leave when it is foreseeable for the birth or placement of a child for adoption or foster care or for planned medical treatment. If the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice no more than two business days after learning of the need for leave, except where extraordinary circumstances exist.~~

~~(2) Planned medical treatment. When medical treatment is of the type which may be planned for the employee's child, spouse, or parent or when the employee has a serious health condition, the~~

~~employee must give 30 days' notice, if practicable, of the intention to take leave. For planned medical treatment, employee consultation with the supervisor prior to the approval of leave is mandatory. The county reserves the right to deny leave until 30 days after appropriate notice is provided.~~

- ~~(3) — *Medical emergency.* If a medical emergency occurs requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, such notice must be given as soon as practicable, ordinarily within one or two business days, or when the employee learns of the need for leave. In a medical emergency notice should be given either in person or by phone to the supervisor and may be given by the employee's spouse or other family member if the employee is unable to do so due to a serious health condition.~~
- ~~(4) — *Extension of leave.* The employee must notify the supervisor immediately of the need to request the extension of family medical leave. Failure to return to work at the expiration of the approved leave period will be deemed a resignation.~~
- ~~(5) — *Certification.* The employee shall provide certification in accordance with subsection (j) of this section. If the employee does not provide medical certification, the absence will be considered unexcused and subject to disciplinary action.~~
- ~~(j) — *Employee medical certification.* Employee medical certification may be required in accordance with the following:~~
  - ~~(1) — *Adoption.* The supervisor may require a claim for leave because of adoption be supported by reasonable proof of adoption.~~
  - ~~(2) — *Medical certification.* The supervisor may require that a claim for leave because of a serious illness of the employee or of the employee's child, spouse, or parent be supported by a certification from the health care provider. Certification may be required as follows:~~
    - ~~a. — When leave is foreseeable and at least 30 days' notice has been provided, the employee must provide certification prior to leave commencing.~~
    - ~~b. — When it is not possible to provide the medical certification before the leave begins, the employee must provide the requested certification to the supervisor within 15 days following the request. If the employee does not provide medical certification within the allowable time, the absence will be considered unexcused and subject to disciplinary action.~~
    - ~~c. — At the time certification is requested, the employee must be advised of the anticipated consequences of an employee's failure to provide adequate certification. The employee shall be given a reasonable opportunity to correct any incomplete information.~~
  - ~~(3) — *Medical certification form.* The personnel department shall be responsible for developing internal procedures and forms to be used for medical certification which comply with the requirements of the FMLA.~~
  - ~~(4) — *Validity of certification.* A determination of the validity of the certification may be made as follows:~~
    - ~~a. — The health care provider may be contacted for clarification or authenticity of the medical certification by the personnel director.~~
    - ~~b. — If the personnel director has reason to doubt the validity of the medical certification, the employee may be required to get a second opinion, at the county's expense. Pending the receipt of the second or third opinions, the employee is entitled provisionally to FMLA leave. If the opinions do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave. If the opinions of the employee's and the county's health care providers differ, a third opinion may be required again at the county's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the county and the employee.~~
  - ~~(5) — *Recertification of medical conditions.* Medical conditions may require recertification as follows:~~
    - ~~a. — Subsequent recertification to support continuing family medical leave may be required, not more often than 30 days, unless:~~
      - ~~1. — The employee requests an extension of leave;~~
      - ~~2. — There are changed circumstances regarding the illness or injury; or~~

3. ~~Information is received which casts doubt upon the continuing validity of the employee's stated reason for the absence.~~

~~If the minimum duration specified on a certification is more than 30 days, the county may not request recertification until that minimum duration has passed unless less one of the reasons stated in this subsection (j)(5)a exists.~~

- b. ~~The requested recertification must be provided by the employee within 15 days of the request unless it is not practicable under the particular circumstances.~~

- c. ~~The requested recertification shall be at the employee's expense. No second or third opinion on recertification shall be required.~~

- (6) ~~*Fitness for duty certification.* A fitness for duty certification indicating when and if the employee is able to return to work shall be submitted to the personnel department prior to the employee's return to work.~~

- (k) ~~*Employment and benefits protection.* Protection of employment and benefits is in accordance with the following:~~

- (1) ~~*Reinstatement.* The employee shall be reinstated to the same position held when the leave began or one of like pay grade, pay, benefits, and other conditions of employment. The department may require the employee to report at reasonable intervals on the employee's status and intention to return to work. The employee will be required to provide certification to the personnel department that he is able to return to work prior to returning to work.~~

- (2) ~~*Health benefits.* Health benefits are protected as follows:~~

- a. ~~The county shall maintain coverage for the employee under the county's group health plan for the duration of family medical leave as provided to the employee prior to the granting of family medical leave. Such coverage is conditional upon the employee's contribution for other than individual coverage being paid prior to payroll deadlines. The employee will receive written notice of the terms of the payment of premiums during FMLA leave and a schedule of payment due dates. The obligation to maintain health insurance coverage stops if an employee's premium payment is more than 30 days late. The county will provide 15 days' notice that coverage will cease.~~

- b. ~~If the employee's failure to make the premium payments leads to lapse in coverage, the employee shall be restored to equivalent health coverage upon return to work as if the premium payments had not been missed without any waiting period or preexisting conditions.~~

- c. ~~The county reserves the right to recover the cost of health insurance provided to the employee while on FMLA leave should the employee fail to return to work voluntarily.~~

- (3) ~~*Other benefits.* The employee may choose to continue certain other benefits as provided by the county while on family medical leave at the employee's own expense.~~

- (l) ~~*Records.* Records shall be maintained as follows:~~

- (1) ~~The personnel director shall be provided with all documentation of family medical leave, such documentation to be maintained in the personnel department. Such records shall be maintained for no less than three years and must be available to the department of labor upon request.~~

- (2) ~~In addition to the records required by the Fair Labor Standards Act, the county must keep records of the following:~~

- a. ~~Dates FMLA leave is taken;~~  
b. ~~Hours of leave if less than a full day;~~  
c. ~~Copies of employee notices;~~  
d. ~~Documents describing employee benefits;~~  
e. ~~Premium payments of employee benefits; and~~  
f. ~~Records of any disputes.~~

- (3) ~~Records and documents relating to medical certifications, recertification or medical histories of~~

~~employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files, and if ADA is also applicable such records shall be maintained in conformance with ADA confidentiality requirements, except that:~~

- ~~a. Supervisors and directors may be informed regarding necessary accommodations;~~
- ~~b. First aid and safety personnel may be informed, when appropriate, if the employee's physical or medical condition might require emergency treatment; and~~
- ~~c. Government officials investigating compliance with FMLA or other pertinent law shall be provided relevant information upon request.~~

~~(m) Interference with rights. Rights under this section are protected as follows:~~

- ~~(1) Actions prohibited. It is unlawful to interfere with, restrain, or deny any right provided by this section or to discharge or in any other manner discriminate against an employee for opposing any practice made lawful by this section.~~
- ~~(2) Protected activity. It is unlawful to discharge or in any other manner discriminate against an employee because the employee does any of the following:~~
  - ~~a. Files any civil action or institutes or causes to be instituted any civil proceeding under or related to this section.~~
  - ~~b. Gives or is about to give any information in connection with any inquiry or proceeding relating to any right provided by this section.~~
  - ~~c. Testifies or is about to testify in any inquiry or proceeding relating to any right provided under this section.~~

~~(n) Enforcement. A violation of or denial of leave requested pursuant to the Family and Medical Leave Act of 1993 is not a contested case and creates no right of grievance or appeal under the county grievance process or under the State Personnel Act where applicable. Violations are enforced by the U.S. Secretary of Labor.~~

~~(Code 1995, § 270.186)~~

**Sec. 28-273. Occupational safety and health act. ~~( moved to Sec. 28-214)~~**

~~It is the policy of the county to comply in all respects with the 1970 Occupational Safety and Health Act (OSHA). The County manager shall establish policies and procedures relative to compliance with OSHA.~~

~~(Code 1995 § 270.194)~~

**Sec. 28-274. Accidents involving county equipment. ~~(moved to Sec. 28-215)~~**

~~Accidents involving the use of county equipment or occurring on county property, whether or not they result in injury, shall be reported to the employee's immediate The employee and supervisor shall follow county policies and procedures for the reporting of accidents.~~

~~(Code 1995, § 270.195)~~

**Sec. 28-275. Reporting accidents. ~~(moved to Sec. 28-216)~~**

~~(A) An employee who is injured in the per-performance of assigned duties shall immediately report the accident to his or her immediate supervisor and the Personnel department.~~

~~(B) The supervisor shall be responsible for ensuring an injury report is completed and submitted to the Personnel department within seven days of a reported injury.~~

~~(C) State statutes require all accident reports to be filed within five days after knowledge of the accident.~~

~~(Code 1995, § 270.196)~~

**Secs. 28-249--274. Reserved.**

**ARTICLE VIII. STATE AND FEDERAL COMPLIANCE.**

**Sec. 28- 267 275. Employment policy against unlawful workplace harassment**

**(a) Catawba County has a zero tolerance policy against any form of unlawful workplace harassment.**

~~The county does not tolerate any form of workplace harassment, including harassment defined as sexual, race, creed, religion, national origin, age, color, or handicapping condition disability. No employee, regardless of position, may engage in conduct that falls under the definition of unlawful workplace harassment. No employee, regardless of position, may engage in conduct that falls under the definition of unlawful workplace harassment, including, but not~~

~~limited to, sexual harassment.~~ This is generally defined as unwelcome or unsolicited comments or conduct based upon race, sex, creed, religion, national origin, age, color, or ~~handicapping condition~~ disability as defined by G.S. 168A-3 ~~based upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by the Equal Employment Opportunity Commission and G.S. 168A-3~~ that creates a hostile work environment or circumstances involving circumstances involving quid pro quo situation. All employees have the expectation to of working in an environment free from unlawful workplace harassment and retaliation. Indifference by supervisors and other employees with authority will not be condoned either. ~~either.~~ All complaints made by employees will be investigated, and appropriate remedial or disciplinary action up to and including dismissal will be taken on complaints that are substantiated.

~~(b) Reporting a complaint of any kind is~~ Reporting a complaint of any kind is difficult, since complaints generally involve a supervisor or coworker. ~~However,~~ However, an employee who believes that he may have a complaint of harassment ~~may have a complaint of harassment~~ is advised to file the complaint directly with the personnel director. Any department director ~~director~~ or supervisor who receives a complaint of harassment shall report the matter to the personnel director immediately. Complaints will be investigated by the personnel director, or, when an absence occurs or when a conflict exists, ~~in cases of absence or when a conflict exists,~~ a designee.

~~(B)(i)~~ Employees who allege unlawful workplace harassment must, within 15 ~~30~~ calendar days of the alleged harassing action, submit a written complaint to the personnel director so a thorough investigation can be conducted and appropriate action taken. ~~so a thorough investigation can be conducted and appropriate action taken.~~

~~(C)(j)~~ Confidentiality and the dignity of those involved in a complaint is important. Considering the sensitive nature of harassment complaints, every effort will be made to keep the complaint and the name of the employee confidential and on a need-to-know basis. However, due to the nature of conducting an investigation, confidentiality cannot be guaranteed. Reports, including the final report, will be distributed only to persons having a need or right to know. Employees involved in any investigation, whether as complainant or alleged harasser, witness or investigator, should keep all discussions or communications confidential.

~~(D)(k)~~ The County has 30 ~~60~~ days to take remedial action, if any, in response to a complaint. ~~Otherwise~~ Otherwise complainants in mental health, public health, or social services have the right to appeal directly to the office of administrative hearings and the state personnel commission. Complainants in other departments may appeal ~~directly~~ to the county manager through the county grievance procedure as set forth in this section. ~~section.~~

~~(E)(l)~~ Investigation files shall remain separate and apart from personnel files. Neither the claimant nor the alleged harasser have a right to the contents of these files. Any personnel action, such as discipline, resulting from an investigation, shall be filed in the employee's personnel file. The contents of these files are protected according to section 28-196 303 of this Code ~~according to §270.159 of the Personnel Code.~~

~~(F)(m)~~ ~~In furtherance of this policy, the~~ In furtherance of this policy, the county prohibits any retaliatory action of any kind taken by an employee of the county against any other employee because that person made charges, testified, assisted or participated in any manner in a hearing, proceeding or investigation of workplace harassment or employment discrimination.

~~(n) Grievances~~ Grievances. It is the intent of the county government to provide a system of employee appeals or grievances which is substantially equivalent to the system developed and maintained by the state under G.S. ?126-1 et seq. In order to maintain harmonious and cooperative relationships between the county and its employees, it is the policy of the county to provide for the settlement of complaints through an orderly complaint procedure free from interference, discrimination, or reprisal. The complainant shall file all correspondence regarding grievances with the Personnel director. Grievances which are not received within the time allowed as prescribed in this subsection or which are not filed with the Personnel director as prescribed in this subsection shall be dismissed.

———(1) Any employee or former employee who has filed a workplace harassment complaint has the right to appeal the following:

(a) Remedial actions taken by the County as a result of a workplace harassment complaint. Disciplinary actions which are a part of remedial action ~~shall~~ may only be grieved by the recipient of the disciplinary actions as provided for under section 28-123.

(b) Failure by the County to investigate a workplace harassment complaint and respond to the complaint within ~~60~~ 30 calendar days.

(2) Any employee who testified, assisted or participated in any manner in a hearing, proceeding or investigation of workplace harassment or employment discrimination has the right to appeal any retaliatory action of any kind taken by an employee of the County against them because of their participation.

(3) Active employees shall be allowed one hour from regular duties for to preparing a grievance.

(4) An employee has the right of to retain legal counsel at the expense of the employee ~~the expense of the employee.~~

(5) Advisory services pertaining to procedures are available from the County Personnel Director. Director.



- (6) In order that all employees may be able to obtain further consideration of their problems, in a harassment complaint. In order that all employees may be able to obtain further consideration of their problems it is essential that two-way communication occur, and management shall make every effort to resolve the problem or correct the misunderstanding prior to the grievance procedure.
- (7) An employee ~~shall~~ must file a written appeal within fifteen (15) calendar days after an appealable action has occurred. The employee shall attach all ~~additional~~ information and supporting documentations to the appeal. The notice of appeal must be received by the Personnel director ~~by~~ before 5:00 on the fifteenth day.
- (8) The county manager must contact the employee within seven (7) calendar days to set a ~~the~~ date, place and time for oral presentation of the grievance. Unless the employee agrees otherwise, the hearing must be held within seven calendar days from the date the employee filed the appeal with the personnel director.
- (9) The county manager shall render a decision in writing to the employee or former employee who filed the grievance within seven days of the hearing. However, if the county mManager needs more time to obtain facts he may advise the parties involved. The county manager's written decision ~~Such writing~~ ~~Such writing~~ shall contain the employee's and the county's official statements and the county's official conclusions. The written decision shall also contain notice of further appeal rights if any.
- (10) Once a decision is reached, the procedure is ended and the documents are filed in the personnel department.
- (12) ~~(12) Once a decision is reached the procedure is ended~~ The decision of the county manager is final, except that employees and former employees of the departments of social services, public health and mental heath who are subject to the state personnel act will have 30 days to appeal a decision of the county manager to the state personnel commission. Appeals to the state personnel commission must be filed in writing with a copy furnished to the personnel director. Employees should consult with the state personnel commission regarding the state's appeal procedures.

(Code 1995, § 270.181)a

**~~Sec. 28-268. Mandatory retirement age. (included in 28-206)~~**

~~In compliance with the Age Discrimination in Employment Act amendment (29 U.S.C. 621-634), there shall be no mandatory retirement age for county employees except in positions where bona fide occupational qualification exists. (Code 1995, § 270.182.)~~

**Sec. 28-269 276. Americans with Disability Act.**

- (a) It is the policy of the county to comply with the relevant and applicable provisions of the Americans With Disability Act (ADA). The county will not discriminate against any qualified employee or applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability. The county will ~~also~~ also make reasonable accommodations ~~wherever necessary~~ wherever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the duties and assignments connected with the job and provided that any accommodations made do not require significant difficulty or expense.
- (b) Employees or applicants who may need an accommodation, whether temporary or permanent, shall contact the personnel director for assistance.

(Code 1995, § 270.183)

**Sec. 28-277—302. Reserved.**

**ARTICLE VI. IX. PERSONNEL RECORDS AND REPORTS**

**Sec. 28-233 303. Confidential information.**

- (a) No county employee or official shall use or disclose information gained in the course of employment or by reason of position for purposes of advancing a financial or personal interest, a business entity in which there is an ownership interest, a financial or personal interest of a household member or a family member as defined in section 28-154(b), or any other private or political interest ~~to the detriment of the county.~~
- (b) No employee or official shall disclose confidential or privileged information concerning personnel matters, property, contract negotiations, litigation-related matters, or other affairs of the county which are afforded protection under state law.

(Code 1995, § 270.172)

**Sec. 28-496 304. Personnel records; access to public information; privacy act.**

- (a) Personnel records are necessary for the proper administration of the county personnel system and will be maintained by the personnel director. The employee's personnel file is maintained by the personnel department. The personnel records custodian shall be the personnel director, whose responsibility it is to maintain a file for each county employee.

(b) The personnel director may designate an individual or individuals within the personnel department to act as records custodian. The records custodian is responsible for the proper maintenance and documentation of personnel records procedures in accordance with state and local law.

(c) The county shall maintain in each employee's personnel record only information that is necessary and relevant to accomplishing legitimate personnel administration needs. It is the responsibility of the personnel director to assure the sanctity and authenticity of every employee's personnel file.

~~(b)~~ (d) As required by G.S. 153A-98 and 160A-168, any person may have access to public information as defined by this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public record as the county may adopt. Any person denied access to any record shall have a right to compel compliance with this subsection by application to a court for writ of mandamus or other appropriate relief.

(e) Departments shall forward all documents that are a part of a personnel file to the personnel director.

~~Personnel records are necessary for the proper administration of the personnel system (f) (c)~~ For purposes of this article, an employee's personnel file consists of any information of any form gathered by the county with respect to that employee. This would include but would not be limited to information relating to an employee's application for employment, selection or non-selection for a vacant position, performance, promotions, demotion, transfers, suspension, and other disciplinary actions, evaluation forms, salary, any applicable information relating to employment, and or termination of employment.

(Code 1995, § 270.159)

**Sec. 28-197 305. Public and confidential information defined.**

(a) The following information regarding each county employee is public information:

- (1) Name.
- (2) Age.
- (3) Date of original employment or appointment to county services.
- (4) Current position/title.
- (5) Current salary.
- (6) Date and amount of most recent change in salary.
- (7) Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification.
- (8) Office to which the employee is currently assigned.

(b) All information contained in a county employee's personnel file, other than the information listed in subsection (a) of this section, will be maintained as confidential in accordance with the requirements of G.S. 160A-168 and shall be open to public inspection only in the following instances:

(1) The employee or a duly authorized agent may examine all portions of the employee's personnel file, except:

- (a) Letters of reference solicited prior to employment; and
- (b) Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient.

(2) A licensed physician designated in writing by an employee may examine the employee's medical record.

(3) A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.

(4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.

(5) An official of any agency of the state or federal government or any political subdivision of the state may inspect any portion of a personnel file when such information is deemed by the person having custody of the file to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.

(6) An employee may sign a written notarized statement authorizing release of other specified information to prospective employers, educational institutions, or other specified persons.

(7) The county manager, with the concurrence of the board of commissioners, may inform any persons of the employment or nonemployment, promotion, demotion, suspension, or other disciplinary action, reinstatement, transfer, or termination of a county employee and the reasons for that personnel action. Before releasing the information, the Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of county services or to maintaining the level of quality county services. A record shall be maintained in the personnel file and as part of the public record in the office of the clerk to the board.

(8) Even if considered part of an employee's file, the following information may be withheld from an employee:

- (a) Testing or examination material used solely to determine qualification when disclosure would compromise testing.
- (b) Investigative reports concerning possible criminal actions against the employee until the investigation is completed.
- (c) Information which might identify undercover officers or informers.
- (d) Notes, preliminary drafts, and internal communications unless used for official personnel decisions.

(Code 1995, § 270.160)

**State law reference:** Penalty for permitting illegal access to confidential file G.S. 153A-98

**Sec. 28-198. Designation and responsibilities of records custodian. (included in Sec. 28-304)**

~~Pursuant to section 28-4(b), the personnel records custodian shall be the personnel director, whose responsibility it is to maintain a personnel file for each county employee. The personnel director may designate an individual within the personnel department to act as records custodian. The records custodian is responsible for the proper maintenance and documentation of personnel records procedures in accordance with state and local law.~~

~~(Code 1995, § 270.161)~~

**Sec. 28-199 306. Request and review procedure.**

~~(a) The records custodian will consult with a appropriate staff attorney when a requests to review or copy personnel file materials of an unusual nature and outside the scope of the General Statutes are received. requested. Upon advice, the appropriate releases will be drafted and signed prior to releasing any information.~~

~~(A) All requests for personnel records information must be made in writing to the records custodian.~~

~~An employee may sign a written letter of consent authorizing release of confidential information to prospective employers, educational institutions or other specified persons.~~

~~(b) If a request is determined by the records custodian to be for public information, the custodian shall, within five working days, provide such public information.~~

~~(c) Only individuals contemplated by G.S. § 153A-98 as set forth in § 270.160 shall have standing to receive confidential personnel information. Such requests shall be made in writing by the individual having standing and shall be made on a standard "Catawba County Disclosure of Confidential Information" form, such form to contain the signature of the requesting party. The requesting party shall not disclose such confidential information. The custodian shall within five working days provide access to such information.~~

~~As required by G.S. 153A-98 and 160A-168 any person may have access to public information as defined by this subchapter for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the county may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.~~

~~(Code, § 16-163)~~

**Sec. 28-200 307. Remedies and objections.**

~~An employee who objects to material in a personnel file may forward to the personnel director a request to place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with the following procedure:~~

~~(A) A written request containing the employee's name and identifying the objectionable material, with any supporting documentation, shall be submitted to the Records Custodian.~~

~~(B) The Records Custodian shall notify the County manager and the appropriate supervisory personnel of the nature of the complaint and shall within five working days make a determination recommendation regarding the disposition of the complaint to the County manager.~~

~~(1) If the complaint is found to be valid the material shall either be corrected and returned to the file or removed from the file and destroyed.~~

~~(2) If the complaint is found to be invalid the material shall remain in the personnel file and a copy of the employee's written objection shall be placed in the personnel file.~~

~~(Code, § 16-164)~~

**Sec. 28-201 308. Destruction of county records.**

~~No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. § 121-5(B), without the consent of the state department of cultural resources.~~

~~Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys a public record, it, will be charged with having committed guilty of a misdemeanor, and upon~~

conviction, will be fined not less than \$10 or more than \$500, for each public record so altered, defaced, mutilated, or destroyed, as provided in G.S. § 132-3.  
(Code, § 16-165 )

**Sec. 28-266-- 309 Privacy policy**

As required by G.S. 153A-98 and 160A-168, any person may have access to public information as defined by this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the county may adopt. Any person denied access to any record shall have a right to compel compliance with this article by application to a court for writ of mandamus or other appropriate relief.

Access to, or inspection and copying of employee personnel files, files of clients, and other information created and maintained by county in the ordinary course of business, are controlled by federal, state and local laws, ordinances and regulations. Any violation is subject to discipline.

(Code, § 16-180) (Ord. passed 4-6-92)

**Secs. 28-276 310--28-300 335. Reserved.**

(The following article is moved to article II)

**ARTICLE IX. EQUAL EMPLOYMENT OPPORTUNITY POLICY**

**Sec. 28-301. Policy statement.**

- (a) ~~The equal employment opportunity plan reaffirms the active commitment of the county to equal opportunity employment. It is the purpose of this plan to set forth a positive policy of equal opportunity in all county programs and employment. The county voluntarily executes this plan in compliance with federal, state, and local laws; executive orders; and regulations prohibiting discrimination in employment practices with regard to race, color, religion, sex, national origin, handicapping condition, age, or political affiliation. It is also done to assist in the identification and elimination of any employment practice which may result in treatment that is disparate or that has a discriminating effect.~~
- (b) ~~The county manager shall have overall responsibility for the administration of this equal employment opportunity program. The personnel director is charged with the day-to-day implementation, direction, and continuous evaluation. The personnel director shall present periodic reports on the progress of the program to the county manager. Additionally, all management and supervisory personnel shall be equally responsible for compliance with the equal employment opportunity plan.~~
- (c) ~~The equal employment opportunity plan embraces all positions in county government.~~

(Code 1995, § 271.01)

**Sec. 28-302. Responsibilities.**

- (a) ~~The county manager shall be ultimately responsible for the achievement of equal opportunity employment and for the administration of the equal employment opportunity plan. He shall formulate and disseminate directives to department heads to develop goals and assign responsibility for the day-to-day operation and implementation of the plan. The county manager shall inform the board of commissioners on the progress of the plan.~~
- (b) ~~The personnel director shall be responsible for the following:~~
  - (1) ~~The day-to-day operation and implementation of the plan, including the development and updating of the written plan.~~
  - (2) ~~The general direction and/or coordination of the program as established under the plan.~~
  - (3) ~~The collection, analysis, preparation and dissemination of required reports.~~
  - (4) ~~Assistance to supervisory personnel in meeting their responsibilities.~~
  - (5) ~~Establishment of contacts in the community which specialize in recruitment of protected classes.~~
  - (6) ~~The maintenance of all central personnel records in a manner consistent with applicable employment practices, laws and other requirements of the plan.~~
  - (7) ~~The development and maintenance of all personnel directives consistent with the plan and applicable laws.~~
  - (8) ~~Periodic review of the county's classification system, benefits, leave policies, training and career~~

~~development programs, and other employment practices to ensure that all practices conform with the plan.~~

- ~~(c) Department directors shall be responsible for working with the personnel director to implement the equal employment opportunity plan within their particular departments to:~~
  - ~~(1) Establish goals and objectives based on labor market data provided by the personnel director and available job openings;~~
  - ~~(2) Provide leadership and support in the area of equal opportunity employment; and~~
  - ~~(3) Endeavor to maintain a positive attitude among employees.~~
- ~~(d) Supervisory staff shall be responsible for day-to-day compliance with the policies and procedures established under this plan and shall endeavor to maintain a positive attitude among employees.~~

~~(Code 1995, § 271.02)~~

**Sec. 28-303. Goals and objectives.**

- ~~(a) The goal of the equal employment opportunity policy is to:~~
  - ~~(1) Prevent discrimination in employment practices with regard to race, color, religion, sex, national origin, handicapping condition, age, or political affiliation; and~~
  - ~~(2) Identify and eliminate any employment practice which may result in treatment that is disparate or that has a discriminating effect.~~
- ~~(b) In order to reach these goals, the following policies are reiterated and/or established:~~
  - ~~(1) The personnel department shall maintain records and statistical information in support of the equal employment opportunity plan to monitor the program. The information shall include the following:~~
    - ~~a. Applicant flow by race and/or national origin, sex, and age;~~
    - ~~b. New employees by race and/or national origin, sex, and age;~~
    - ~~c. Transfers and promotions by race and/or national origin, sex, and age; and~~
    - ~~d. Voluntary and involuntary terminations by race and national origin, sex, and age.~~
  - ~~(2) Handicapping condition information will be used when available. This information as well as age and race and/or national origin may not be provided by applicants or employees.~~
- ~~(c) The personnel director shall annually prepare an equal employment opportunity report which reflects race and/or national origin and gender of employees by job categories.~~

~~(Code 1995, § 271.03)~~

**Sec. 28-304. Policy dissemination.**

- ~~(a) Notice. Each county employee and citizen shall be informed of the county's equal employment opportunity policy and management's commitment to that policy through the following means:~~
  - ~~(1) Internal:~~
    - ~~a. All departments, as well as individuals who request it, will receive a copy of the equal employment opportunity plan.~~
    - ~~b. Every employee with recruitment, promotion, or supervisory responsibilities will communicate the county's policy to each employee or applicant under his direction.~~
    - ~~c. The equal employment opportunity policy statement will be posted on bulletin boards in all county buildings and in the personnel department.~~
    - ~~d. The equal employment opportunity policy and plan will be discussed as part of the employee orientation and all training programs.~~
  - ~~(2) External:~~
    - ~~a. Advertisements will be communicated to the local news media, employment training institutions, community and minority leaders, minority universities and other recruitment sources that the personnel director deems appropriate.~~

- b. ~~All employment advertisements and correspondence will contain the statement that the county is an "equal opportunity employer."~~
- c. ~~All subcontractors, vendors, and suppliers will be notified of the equal employment opportunity plan to solicit appropriate supportive action.~~
- (b) ~~Monitoring. A review of current employment practices is essential to identify barriers to equal employment opportunity. The personnel director shall continually monitor the employment process and adjust procedures to ensure that barriers do not exist. The following aspects of the personnel system shall be specifically addressed:~~
  - (1) ~~Recruitment.~~
    - a. ~~Each department will maintain a coordinated recruitment program with the county personnel department.~~
    - b. ~~Preemployment policies and procedures shall be job related.~~
    - c. ~~Vacancies which will be filled from within the county work force will be posted in areas known to employees. All vacancies for which outside applicants are considered will be listed with the local job service office of the employment security commission.~~
    - d. ~~Job announcements will be readable, realistic, and accurate in describing minimum requirements for the job, key duties, physical requirements, job title, salary and application process.~~
    - e. ~~Efforts will be directed toward the local news media, employment training institutions, community minority leaders, minority universities, and other recruitment sources which have contact or represent the interest of other protected classes that the personnel director deems appropriate.~~
  - (2) ~~Selection and placement.~~
    - a. ~~Selection policies and procedures are designed to ensure objectivity and prohibit discrimination. The personnel department will play a major role in this process. The personnel director shall train those employees involved with application, interview, and selection phases in techniques to accurately determine the job-related qualifications of each applicant. The personnel director shall monitor the process to identify selection techniques which may be discriminatory.~~
    - b. ~~The following steps will ensure equality and objectivity in the selection of the best qualified applicant:~~
      - 1. ~~Provision of reasonable accommodation of disabled applicants.~~
      - 2. ~~Removal of all nonjob-related and discriminatory information from the application form.~~
      - 3. ~~Review of screening procedures, such as tests and interviews, to ensure objectivity and job relatedness.~~
      - 4. ~~Establishment of a documentation procedure for selections and rejections.~~
    - c. ~~The personnel director will monitor placement policies and work assignments of all new employees. Work assignments will be meaningful, contribute to the attainment of the organization's goals, and offer opportunities for career advancement to the maximum extent possible.~~
  - (3) ~~Promotions and upward mobility.~~
    - a. ~~All county employees shall receive equal consideration for promotions, transfers, reclassification, salary increases and merits.~~
    - b. ~~All employees shall be encouraged and be permitted to apply for transfers and promotions to enhance their career development and upward mobility. Those employees who apply and are not selected shall be so informed.~~
    - c. ~~The personnel director shall evaluate classification specifications for duties and salary to ensure job relatedness, as necessary adjustments will be made when duties and~~

~~responsibilities change. The personnel director shall also examine performance rating measures to identify areas where training may be required or where discrimination may exist.~~

~~(4) Personnel actions and benefits.~~

- ~~a. All privileges, benefits, and conditions of employment apply to all county employees. The personnel director shall maintain a constant review of all personnel procedures to ensure compliance with this policy.~~
- ~~b. All employees shall be informed of the grievance procedures in section 28-123. Strict compliance with these procedures will promote rapid, fair, and reprisal-free mediation of problems or complaints. These procedures and policies are published and maintained separately in article IV of this chapter and are available to employees in orientation, at the time of personnel actions and in all county departments. The personnel director shall provide consultation to employees and supervisors regarding these procedures.~~
- ~~c. The personnel director shall update all supervisory and management staff with information on new laws, programs, and policies pertaining to equal employment opportunity. Each supervisor shall inform and explain these programs and policies to all employees.~~
- ~~d. The personnel director shall periodically review the benefits package to ensure that all categories of employee benefits are available to all employees on an equal basis unless otherwise required by law.~~

(Code 1995, § 271.04)

~~Sec. 28-305. Program evaluation~~

- ~~(a) A comprehensive evaluation of the county's equal employment opportunity efforts is essential to target areas for improvement. The personnel director shall prepare an annual report on the program, recommending changes to the county manager and management staff. With this report, the personnel director shall submit a review of county and departmental equal employment opportunity goals and a listing of problems, accomplishments, and proposed future actions to ensure compliance with the planned objectives.~~
- ~~(b) The personnel department shall continuously maintain records and statistical information to monitor compliance.~~
- ~~(c) The personnel department shall conduct exit interviews preceding or following all terminations and transfers between departments. Periodically, the personnel director shall provide a collective report reflecting comments from the interviews to assist the appropriate staff in the administration of the plan.~~
- ~~(d) The county manager and personnel director shall hold periodic meetings with employees to obtain feedback and suggestions on how to improve the county's compliance with the plan.~~

(Code 1995, § 271.05)

Articles X-XII. (Unchanged)

This 6th day of October, 2003.

/s/ Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

Commissioner Beatty made a motion to adopt the aforementioned ordinance amending Chapter 28, Personnel of the Catawba County Code of Ordinances. The motion carried unanimously.

e. Finance Department:

1. Remote Sales Tax Legislation.

Finance Director Rodney N. Miller said states, counties and cities are losing an estimated \$26 billion in sales tax revenues this year because remote sellers are not collecting sales and use taxes on Internet and mail order sales. By 2005, this figure is expected to climb to \$45 billion. Although states and local governments require taxpayers to calculate and remit so-called "use taxes" on their purchases when sales taxes are not collected, there is no effective enforcement mechanism and many taxpayers do not even realize that they owe a use tax.



Estimates show that Catawba County is losing approximately \$1.9 million in sales tax revenues this fiscal year due to remote sales that are not being taxed. That number is expected to quadruple by 2006.

States and local governments have recognized that the complexity of existing tax laws poses a significant burden for remote sellers who collect sales taxes in multiple jurisdictions. To address this concern, 35 states have joined together in a two-year effort to develop uniform and simplified sales tax definitions and administrative procedures. The agreement, which was adopted in November 2002, creates a voluntary compliance system for participating sellers and states that will be implemented once ten states representing at least 20 percent of the population of states with a sales tax are officially deemed to be in compliance with the agreement. Within the first six months of 2003, lawmakers in 20 states, including North Carolina, have adopted legislation to conform to the requirements of the agreement. The Streamlined Sales Tax Agreement modernizes and addresses inequities in existing sales tax laws and paves the way for cities and counties to re-capture this critical revenue loss.

The Supreme Court has ruled that states and local governments cannot require out-of-state sellers to collect and remit sales taxes without authorization from Congress. Legislation was scheduled to be introduced to Congress on September 25, which would permit those states that have enacted measures to simplify their sales tax laws, per the Streamlined Sales Tax Project, to compel out-of-state vendors to collect and remit sales taxes on behalf of state and local governments. North Carolina's David Plyler, of Forsyth County, has been named chair of a national sales tax collection task force charged with developing a media campaign to help our members of Congress and the general public understand the need for remote sales tax collection. Contrary to a widespread misperception, the Internet Tax Freedom Act, which expires on November 1, 2003, does not apply to sales taxes. It imposes a moratorium only on Internet access taxes and taxes that discriminate against Internet services.

The Policy and Public Works Subcommittee recommended that the Board of Commissioners support federal legislation authorizing states to require retailers in other states to collect sales and use taxes on remote sales and fax letters to the North Carolina delegation requesting their support of this new remote sales tax legislation.

Commissioner Barger made a motion directing staff to fax letters to the North Carolina delegation requesting their support of the new remote sales tax legislation. The motion carried unanimously.

11. Attorneys' Report. None.
12. Manager's Report. None.
13. Other items of business.
  - a. Closed Session.

County Attorney Robert Oren Eades requested a Closed Session pursuant to NCGS 143-318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agenda concerning the position to be taken by or on behalf of the public body in the negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease. Mr. Eades said the property for discussion is located at 4198 Hickory Lincolnton Highway, owned by the Xiong Family, and proposed to be used for landfill operations. Mr. Eades said he did not anticipate any action following the closed session.

At 10:55 a.m., Commissioner Hunsucker made a motion to recess into Closed Session pursuant to NCGS 143-318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agenda concerning the position to be taken by or on behalf of the public body in the negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease. The property for discussion is located at 4198 Hickory Lincolnton Highway, owned by the Xiong Family, and proposed to be used for landfill operations. The motion carried unanimously.

At 11:10 a.m., Commissioner Hunsucker made a motion to return to open session. The motion carried unanimously.

14. Adjournment.

At 11:10 a.m. there being no further business to come before the Board, Commissioner Hunsucker made a motion to adjourn. The motion carried unanimously.

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Katherine W. Barnes  
Chair, Board of Commissioners

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Thelda B. Rhoney  
County Clerk